

The Mediators' Institute of Ireland

Guidelines for the Complaints Adjudication Procedure

Cases Referred under
Sections 4 and 5 of the MII Complaints Procedure

16th March 2011



The Mediators' Institute of Ireland

Complaints to The Mediator's Institute of Ireland

Under Sections 4 and 5 of the MII Complaints Adjudication Procedure

1. Introduction

Section 4 of the MII Complaints Procedures provides for the referral by **the Complainant** of a complaint relating to a **Member of the MII** to the MII Complaints Adjudication Process. This section also outlines the procedures that apply to the consideration of the case by the Complaints Adjudication Panel.

Section 4.3 provides that if the Member has not already done so, the Chair of the Complaints Adjudication Panel 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.

Section 4.4 provides that the Complaints Panel will meet to consider the complaint on the basis of the written documentation submitted to the Chair. The Complainant and the 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.

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

2. Section 5 of the MII Complaints Procedures provides for the appointment of the Complaints Adjudication Panel and the general procedures that apply to the adjudication process, including the notification to the Complainant and the Member of the decision in relation to the complaint.

Section 5.5 provides that the deliberations of the Complaints Panel will be confidential...

Section 5.6 provides that if the Complaints Panel believes 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.

This document outlines in more detail the Complaints Adjudication Panel's procedures for dealing with such cases.

3. Definition of Adjudication

Adjudication is defined as a process to review the evidence and argument, including the reasoning set out by opposing parties to come to a decision which determines rights and obligations between the parties involved. It involves a background investigation and a review and consideration of all available information.

4. Any of the parties are bound to hold any information that they learn as a result of the Complaints Adjudication Process confidential, except for the purposes of any appeal related to the claim.

5. Processing the Complaint

- 5.1 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.

The Chair of the Complaints Adjudication Panel 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.

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.

When the Chair is satisfied that all of the required information and supporting documentation has been received they will arrange for a meeting of the Complaints Adjudication Panel to consider the Complaint on the basis of the written documents.

- 5.2 Following the initial consideration, the Chair will issue a covering letter by Registered Post on behalf of the Complaints Adjudication Panel to:
 - a. Inform the Complainant and the Member that they have a right to be heard by the Complaints Adjudication Panel as part of its consideration of the complaint,
 - b. Inform the Complainant and the Members that they may be accompanied at the hearing by a support person. Such a person serves in an advisory and supportive role and may not speak for the Complainant or the Member at the hearing. A support person may not have been involved with the complaint in any way.
 - c. Ask them to confirm in writing if they wish to attend and be heard or not, and

- d. If they will be accompanied at the hearing by a support person and if yes, to supply the name contact details of the person concerned in their written reply to the Chair
 - e. Indicate that if a response is not received within 10 days it will be taken as confirmation that they do not wish to be heard and that the Panel will proceed to consider the complaint without that party appearing before it..
- 5.3 Both parties have the right to be heard. In the event that either party indicates that they do not wish to be heard, this will not alter the right of the other party to be heard.
- 5.4 If the Complainant or Member has responded to the Panel's letter and has indicated that they wish to be heard, a hearing of the complaint by the Complaints Adjudication Panel in accordance with Section 6 will be arranged.
- 5.5 If the Complainant and Member have responded to the Panel's letter and both have indicated that they do not wish to be heard, the Complaints Adjudication Panel will proceed as at paragraph 5.6, but will also take into account any written evidence submitted by the Parties.
- 5.6 If no response has been received from the Complainant or the Member within the time frame set down in the Panel's letter, the complaint will be considered by the Panel. The Panel will
- a) consider the documents submitted,
 - b) decide whether the complaint is upheld, and
 - c) if the complaint is considered upheld, may make recommendations that the Member make amends, including where appropriate the reimbursement of fees
 - d) in the event that some or all of the complaint is upheld, the Complaints Adjudication Panel must record in writing that decision and set out the reasons on which it is founded
 - e) If the Panel believe that the complaint gives rise to a matter which should go before the MII Disciplinary Panel, they should notify the Chair of the Ethics and Standards Committee in writing including details of the alleged breach of the Code of Ethics and Practice.

The Member and the Complainant will be informed in writing of the outcome of the Complaint Adjudication Panel's consideration of the complaint.

6. The Complaint Adjudication Panel Hearing

- 6.1 Where a case is to proceed to a hearing, the parties will, in due course, be notified by the Chair of the hearing arrangements.
- 6.2 The Hearing will be held in private.

- 6.3 Both the Complainant and the Member may be accompanied at the hearing by a Supporter. The support person will serve in an advisory and supportive role and may not speak for the Complainant or the Member during the hearing.
- 6.4 The Complaints Panel will be responsible for the process of the hearing including the role of any Supporters in attendance.
- 6.5 Either party may attend at the hearing whether or not the other party chooses to attend.
- 6.6 The Hearing will be digitally recorded and copies of the recorded proceedings will be made available to the parties in the event of an appeal process.
- 6.7 The Chair will make the introductions and outline the ground rules for the hearing.
- 6.8 The Complainant and the Member may ask questions of each other and may contradict the evidence of the other person.
- 6.9 Any Member of the Complaints Adjudication Panel may ask any question of the parties relevant to the matter under adjudication
- 6.10 Any additional information will be circulated to the parties at the Hearing

7. The Adjudication

When all of the evidence is complete, the Complaints Adjudication Panel will consider all of the evidence that has been adduced and will

- a. decide whether some or all of the complaint is upheld, and
- b. if some or all of the complaint is considered upheld they may make recommendations that the Member make amends, including, where appropriate, the reimbursement of some or all of the fees
- c. In the event that all or some of the complaint is upheld, the Complaints Adjudication Panel must record in writing that decision and set out the reasons on which it is founded.
- d. If the Panel believe that some or all of the complaint gives rise to a matter which should go before the Disciplinary Panel, they should notify the Chair of the Ethics and Standards Committee in writing including details of the alleged breach of the Code of Ethics and Practice.
- e. If the Panel believe that some or all of the complaint is not upheld, the Complaints Adjudication Panel must record in writing that decision and set out the reasons on which it is founded.

8. Note taking by the Complaints Adjudication Panel

8.1 Any notes made by the Members of the Complaints Adjudication Panel in the case are private and maybe destroyed if they think fit after the decision has been made and the parties informed.

9. Notification of the Decision

9.1 The Chair of the Complaints Adjudication Panel will send, within 14 days of the decision having been made, a copy of the decision together with the reasons and any recommendations to the Complainant, the Member and to the Chair of the Ethics and Standards Committee by registered post.

9.2 The notification of the decision will include information in relation to the Mediators' Institute of Ireland Appeals Procedure available to both parties.

9.3 At the end of the process, the Chair of the Complaints Adjudication Panel will send to the Chair of the Ethics and Standards Committee by registered post the documentation, digital recordings and evidence adduced in the case for safekeeping.

10. Further Information

Any queries in relation to the procedures for the adjudication of these complaints should be addressed to the Chair of the Ethics and Standards Committee.

The MII, 16th March, 2011



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