

## MII Complaints Procedures

### 1. Introduction

In the event that a client has a complaint against a 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 Members of the Mediators' Institute of Ireland agree to be bound by the Code of Ethics and Practice.

This Complaints Procedure sets out how complaints relating to a Member of the MII will be dealt with by the Mediators' Institute of Ireland. 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 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 Mediators' Institute of Ireland who may be a General, Associate, Certified or Practitioner Member.
- Independent Mediator:** A Practitioner Member of the MII of at least 3 years who can mediate between the Complainant and the Member without a conflict of interest arising.
- The Council:** The governing body of the Mediators' Institute of Ireland.
- 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:** The process used by the MII to try to resolve complaints made about Members.
- The Independent Mediation:** A mediated process that may be used by the Complainant and the Member to resolve the complaint.

To see the names of current Council and Panel members, please call the MII or check on the MII website.

### 3. Making A Complaint

3.1 A complaint may be made about a Member if it is believed that they have acted in breach of the MII Code of Ethics.

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 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 first check if the person being complained about is Member, as the MII cannot deal with complaints about people who are not Members. If the person complained about is not a Member, the Administrator will let the Complainant know.

3.5 If the person is a Member, the Administrator 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 of the complaint; and any prior attempts to resolve the issue. Copies of any documents supporting the complaint should also be provided.

The Administrator will then contact:

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

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

3.7 If the Complainant chooses to try Independent Mediation to resolve the issue, the President will appoint an Independent Mediator from the Complaints Panel. The Independent Mediator will contact the Complainant and the Member to offer Independent Mediation.

The Independent Mediator will notify the Administrator when the Independent Mediation has concluded, for administrative purposes only.

If the Independent Mediation takes place and does not resolve the issue, the Complainant still has the choice to use the Complaints Adjudication. 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 Procedure.

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 process believes there is a conflict of interest they should declare it and step down from the process where appropriate.

#### **4. The Complaints Adjudication**

4.1 Once a Complainant has notified the Administrator that they wish to use the Complaints Adjudication, the Administrator notifies the Member and the Chair of the Complaints Panel.

4.2 The Chair contacts 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 The Council of the MII will appoint people for two years to be available to sit on a Complaints Panel. The people appointed by Council will include mediators who are members of the MII and people who are independent of the MII. The mediators will, 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 at the start of the two year period.

5.3 Each complaint dealt with under the MII Complaints Adjudication will be dealt with by a group of three members of the Complaints Panel. This will include the Chair, one other independent person and a mediator who has knowledge of the area of mediation which gave rise to the complaint.

5.4 If a complaint is upheld, the Complaints Panel may recommend that the Member make amends including, where appropriate, reimbursement of fees.

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 Administrator 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.

### **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.*



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