

The Mediators' Institute of Ireland

Introductory Notes for Trainee Members and Participants on MII Accredited Mediation Training Programmes

July 2010



The Mediators' Institute of Ireland

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Introduction

The Mediators' Institute of Ireland (the MII) is the professional association for Mediators in Ireland. Established in 1992, it promotes the use and practice of quality mediation as a process of dispute resolution. The MII is committed to ensuring the highest standards of professional practice, training and education.

MII Membership

The MII recognises and values the contributions to mediation from people across all areas of society and actively encourages learning and participation at all levels of mediation.

The MII has 6 different categories of membership as follows:

- Practitioner Member*: An experienced Mediator who has successfully completed an MII advanced assessment.
- Certified Member*: Any person who has satisfactorily completed a 60-hour MII approved or equivalent training programme, successfully undertaken an MII approved assessment of their mediation skills.
- Associate Member*: Any person who has satisfactorily completed a 60-hour MII approved or equivalent training programme.
- Trainee Member*: Any person who is on an MII approved training programme
- General Member*: Any person with an interest in mediation.
- Organisation Member*: This category is for organisations interested in mediation and provides for them to be informed of developments in mediation.

Only Practitioner and Certified Members who hold a current MII practising certificate are approved by the MII to mediate and all members are required to fulfil registration requirements. (For information on each of the types of membership, please refer to the *Becoming a Mediator* section of the MII web site).

Trainee Members

Any person who is on an MII approved training programme is entitled to apply for free membership of the MII under the Trainee Member scheme, and any person who successfully completes an MII approved or equivalent training programme is eligible to apply for MII membership at either Associate or Certified level depending on the status of the programme.

Under the Trainee Member scheme, you may avail of free membership as a Trainee Member of the MII for the year of the start date of the approved training programme and the following calendar year. If during this time you progress to Associate Member status or Certified Member status, the appropriate membership fee must be paid.

The journey from Trainee to Associate level, Certified level and then to Practitioner level is both challenging and rewarding and the MII encourages Trainee Members to actively engage with other trainees and accredited, practising Mediators to develop your skills and practice. Whether developing specific skills and knowledge, engaging in reflective practice or learning how mediation works in a particular environment, there are many opportunities for Mediators, and those interested in mediation, to engage and learn in informative and participative forums.

To register as a Trainee Member of the MII, simply complete the Trainee Member registration form (downloadable from the MII Forms page at www.themii.ie/application-form.jsp) and return, with a copy of your approved training certificate or a letter confirming your attendance from your training provider, to The MII, 35 Fitzwilliam Place, Dublin 2.

Participants who successfully complete an MII accredited training programme are eligible to register as either an Associate Member or Certified Member subject to fulfilment of registration requirements and in the case of Certified Members, successful outcome of an MII approved Certified Member Assessment, and MII assessed role play or a Certified Member evaluation by traineeship.

Please note that while MII approved training programmes have been approved by the Mediators’ Institute of Ireland (The MII), the MII is not responsible for the administration or delivery of these programmes or their assessments. Also, to become a member of the MII, participants must register directly with the MII.

Why Join the MII?

You may want to join the MII for a number of reasons including:

- To access ongoing training and development
- To avail of reduced training fees for MII and non-MII trainings
- To network and engage with practising Mediators from different specialisms and working to different models of mediation
- To stay up to date with current developments and issues in mediation
- To engage and inform the discussion as to the changing needs of Mediators and mediation at this exciting time.
- To avail of reduced rate fees for MII conferences and symposiums.

Trainee Members are entitled to:

- Reduced Member fees for symposium, conferences and some CPD trainings
- Join a Sharing and Learning group
- *Attend sector meetings, AGM and any EGMs
- Sit on appropriate committees

Note: Trainee Members are not eligible to vote at AGM or EGM.

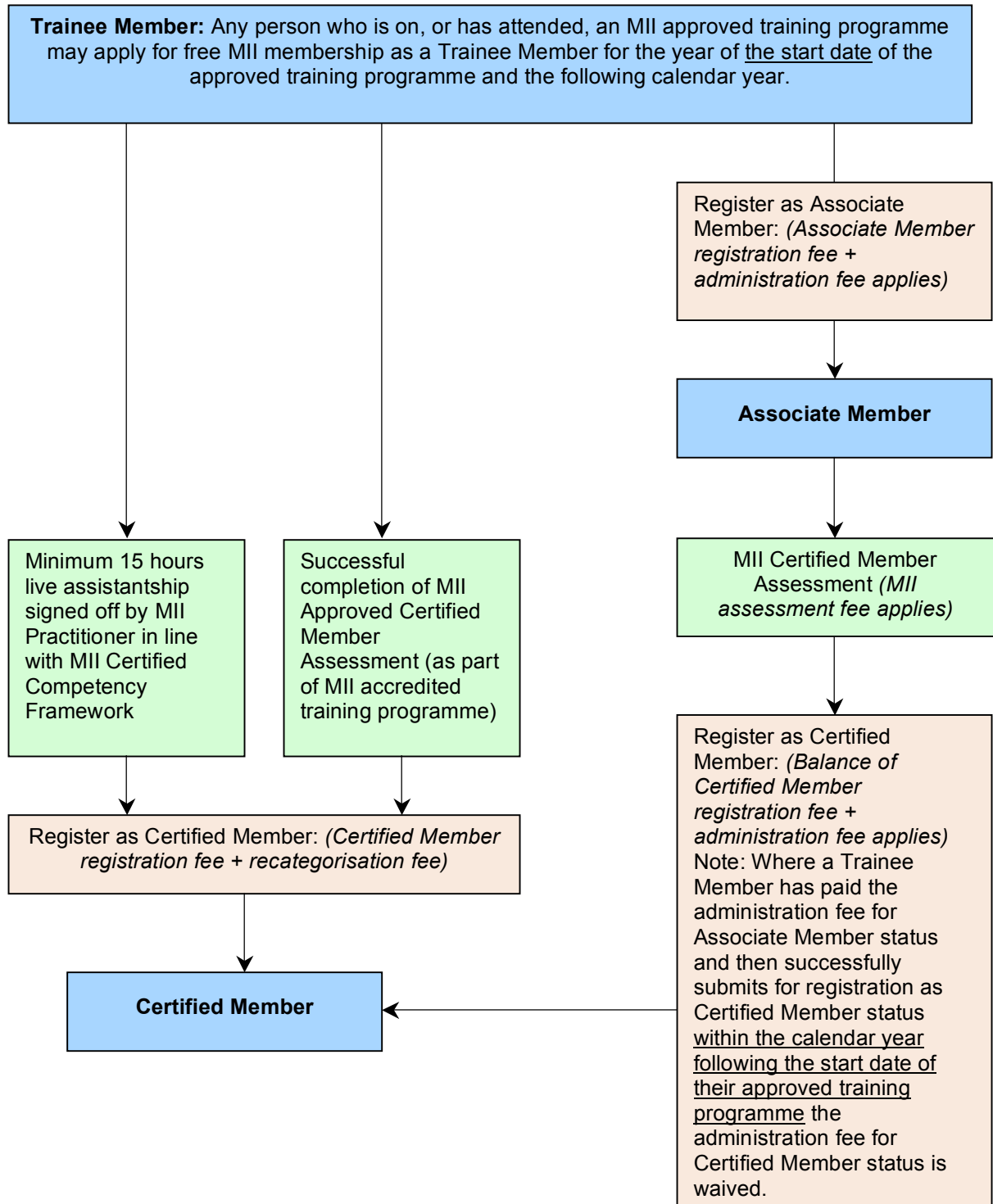
How to Register as a Trainee Member

To register as a Trainee Member of the MII, simply complete a Trainee Member registration form (downloadable from the [MII Forms](#) page) and return with a copy of your approved training certificate to The MII, 35 Fitzwilliam Place, Dublin 2. If you are currently attending an approved training programme a letter from the training provider confirming that you are attending the approved training programme may be forwarded for registration purposes (with certificate of successful completion to follow).

Membership Type:	Trainee Member
Qualification requirements:	Attendance on an MII approved training programme
Further Clarification:	Not entitled to Practising Certificate Not approved to practice Not entitled to vote Not entitled to nominate people to Council or to nominate Sector Reps

There are a number of options for Trainee Members in progressing to Certified Member status, see *Figure 1* below for options and associate MII fees.

Figure 1: Progression from Trainee Member to Certified Member Status – 3 Options and Associated MII Fees



MII Certified Member Status

MII Certified Members are approved to practice and entitled to:

- Apply annually for a Practising Certificate (www.themii.ie/practicing-cert.jsp)
- Updates and briefings on developments in mediation
- Information about symposiums, conferences, CPD trainings and other events
- Reduced Member fees for symposium, conferences and some CPD trainings
- Attend AGM and any EGMs
- Attend any member meetings of the MII including consensus building and sector meetings
- Join a Sharing and Learning group
- Sit on appropriate committees

Only Members who hold a current MII practising certificate (themii.ie/practicing-cert.jsp) are approved by the MII to mediate. Practising MII Mediators are bound by the MII Code of Ethics (*Appendix 1*) and may only mediate where they have the appropriate training, knowledge and competence to effectively mediate.

Competence

MII Mediator's may only mediate where they have the appropriate training, knowledge and competence to effectively mediate in the dispute (*MII Code of Ethics, 5.6*).

An MII Mediator who holds a current Practising Certificate may practice in any area provided they have the competence to do so. Whether or not you are working within your competence can only be assessed in relation to any particular case. Just because the particular case happens to fall under a particular heading in which you have had some training or experience does not necessarily mean that you are competent to start or to continue with that case. By way of example a commercial Mediator who is sufficiently competent to mediate a commercial contract dispute between two parties about one item to the value of €50,000 may lack the competence to mediate a complex, multi-party commercial case with €50 million in dispute.

Where a Mediator takes on a case in good faith and realises during the mediation that aspects of the case are outside of their competence, the Mediator is obliged to either suspend the mediation and to seek appropriate support, or to terminate the mediation.

It is the responsibility of each individual Mediator to ensure that they have the competence, skills and knowledge to mediate in any given mediation.

Certified Competency Framework

To become an MII Certified Member you will need to have completed an MII approved training course or equivalent course (see www.themii.ie/accredited-trainings.jsp) and undertaken and passed an MII approved assessment of your mediation skills in line with the MII Certified Member core competencies (see *Appendix 2*). This assessment may take place in any of the following ways:

- an MII approved role play assessment (*page 8*) as part of a mediation training course; or
- an MII assessed role play (*page 9*) in addition to an approved mediation training course; or
- a minimum of 15 hours traineeship demonstrating appropriate level of skills in relation to the Certified Member competencies with an accredited MII co-Mediator (*compulsory for assessment through the family mediation route*). See Appendix 6 Certified Member Evaluation form for sign-off by supervisor.

Certified Member Registration

To register as a Certified Member of the MII, please forward a copy of your MII accredited or equivalent training certificate, a copy of your Certificate of Assessment (except where training certificate is subject to successful completion of an MII approved assessment), a completed registration form (*downloadable from the MII Forms Page www.themii.ie/application-form.jsp*) and your registration fee (*www.themii.ie/membership-fees.jsp*) to The MII, 35 Fitzwilliam Place, Dublin 2.

Certified Member Application Requirements

Certified Member	Entitled to apply annually for a Practising Certificate (<i>www.themii.ie/practicing-cert.jsp</i>) Entitled to have profile featured on web in Find a Mediator section on MII website Entitled to vote
Qualification requirements:	1. Attendance at 60 hour MII approved or equivalent course 2. (a) Satisfactory assessment of MII approved role-play <i>or</i> (b) Satisfactory Assessment by co-mediation (<i>compulsory for family mediation route</i>) 3. Select a sector as your "home" sector 4. Sign acceptance of the Code of Ethics (<i>Appendix 1</i>)
Application Process	You will need to produce the following items with the MII application for Certified Member Status: <ul style="list-style-type: none"><input type="checkbox"/> Copy of training certificate from MII approved or MII equivalent course<input type="checkbox"/> Evidence of successful completion of MII approved skills assessment (if not included in MII approved or equivalent course) <i>or</i> Certificate of satisfactory completion of Co-mediation with a registered MII approved Co-Mediator<input type="checkbox"/> Signed declaration (www.themii.ie/application-form.jsp) that you will abide by the MII Code of Ethics and have appropriate professional indemnity insurance in place for your type and size of practice<input type="checkbox"/> Cheque payable to the MII for (1) the current Certified Member status application fee and (2) your annual registration fee (if you have already paid an annual membership fee (<i>www.themii.ie/membership-fees.jsp</i>) in another membership category - balance outstanding) see MII Membership Fees<input type="checkbox"/> Completed annual registration form (<i>www.themii.ie/application-form.jsp</i>) if you are not already registered with the MII
	Your application, with all of the relevant attachments, should be sent to the Registrar at 35 Fitzwilliam Place, Dublin 2. <i>Please ensure that you keep copies of the documents.</i>
Further Clarification:	Entitled to Practising Certificate (<i>subject to MII requirements</i>) Approved to practice (<i>if in receipt of current MII Practising Certificate</i>) Entitled to vote
CPD Requirement:	50 hours over a 2-year annualised cycle - for information see CPD requirements (<i>www.themii.ie/cpd-requirements.jsp</i>)

You will also have to select a sector in which to become a Member which may have specific requirements to enable you to become Certified in that sector (Home Sector).

The Sectors are:

- Civil and Commercial
- Community and Voluntary
- Family
- Organisation and Workplace
- Peace Building
- Elder Mediation

MII Approved Role-play Assessment Procedure

Certified Member status assessment as conducted as part of an MII approved training programme is a skills-based assessment. The criteria for the successful outcome of the Approved Role-play Assessment is the demonstration of appropriate application of mediation skills in accordance with the MII Certified Member Assessment Guidelines (*Appendix 3*).

When a candidate is assessed by a training organisation for MII Certified Member assessment, an accredited MII Practitioner Mediator engaged by the training organisation carries out the process as outlined below:

1. Competency assessment forms are given to the applicants some weeks in advance of the assessment so that they can familiarise themselves with the documents.
2. The role-play schedule for the candidates is created on a random basis in the class prior to the assessment day so that the rota is created in a transparent fashion.
3. All role-plays are given to the class to read in advance.
4. Approximately 5 role-plays can be conducted in each group in a working day. Generally, five students are allocated to each group.
5. Role-plays run for 50-60 minutes depending on the time available.
6. Each role-play is filmed. Filming allows the candidates' performances to be reviewed if necessary.
7. The assessor sits in on the mediation role-play and takes notes and assesses candidates in line with MII agreed competencies.
8. As each candidate completes their role-play session, they step out of the group to complete a review of their role-play performance using the Role-play Self-Assessment Form (*Appendix 5*). Alternatively, they may choose to take this Role-play Self-Assessment form home and submit it to the training body within 10 days. The self-reflective form must be completed by the assessment candidate without input or advice from other(s).
9. If agreement is not reached between the disputants during the role-play, the candidate should write up an agreement based on what the parties might have agreed had they reached agreement based on the candidate's understanding of their issues and needs from their role-play.
10. This self-assessment is part of the role-play assessment process.
11. The next candidate then has a choice of:
 - a. Taking over as Mediator and continuing the role-play where the last mediation role-play stopped
 - b. Starting the last mediation role-play again (e.g. Role-play 1)
 - c. Starting a new mediation role-play (e.g. Role-play 2)
12. This process is repeated until all candidates have been assessed.
13. The assessors take the candidates' completed self-assessment forms and reviews each performance after the role-play sessions, marking each candidate on the Certified Member Assessment Form (*Appendix 4*), clearly indicating if they have been successful or unsuccessful.
14. Candidates are informed of the outcome of their assessed role-play within 25 days of their assessment. Note, the assessing body may revise timelines as they see fit.

Review Process

In the event of a candidate requesting a review, the candidate's filmed role-play is sent to two other assessors who review the candidate's role-play against the Competency Assessment document and deem the candidate successful or unsuccessful. If a majority of two or three of the three assessors (including the original assessor) deem the candidate to have been successful or unsuccessful, this is the final decision.

The candidate should refer to the training provider for details of their appeals process.

MII Certified Member Assessment Procedures

Certified Member status assessment as conducted by the MII is a skills-based assessment. The criteria for the successful outcome of the Certified Member assessment is the demonstration of appropriate application of mediation skills in accordance with the MII Certified Member Assessment Guidelines (*Appendix 3*).

Eligibility: MII Certified Member assessment is open to MII registered Associate Members.

Assessment Process:

1. In advance of the assessment, each candidate will be issued with an outline of the on-the-day procedures.
2. In advance of the assessment, each candidate will be given information on the role-play that they will mediate. This role-play will be based on a scenario from their general area of practice.
3. Each assessed role-play will last for 50-60 minutes and will be video recorded to allow for review.
4. Each role-play group, will, in general, consist of the assessment candidate, two role-players and an MII Assessor. There may be an additional observer/assessor and/or technical person present.
5. The MII Assessor sits in on the mediation role-play and assesses the candidate's demonstration of mediation skills in line with MII agreed competencies.
6. Each candidate, on completion of their role-play assessment, will be given a copy of the videoed role-play and a Self-Assessment Form (*Appendix 5*). This self-assessment form is a self-reflective piece to be completed by the candidate, and will be considered by the MII Assessor in their final consideration. The assessment candidate should complete the self-reflection piece having reviewed the video of their role-play. The form should critique the candidate's performance stating why particular techniques were or were not used. The form has to be returned to the MII within 10 working days of the assessment. The self-reflective form must be completed by the assessment candidate without input or advice from other(s).

Note: The Certified Member assessment is a skills-based assessment and demonstration of a satisfactory level of skills in the core areas as outlined in the Certified Member Assessment Form is a mandatory requirement.

7. Each candidate is required to draft a mediation agreement. If their role-play did not arrive at a written agreement the candidate has the option of drawing up an agreement based on what the agreement might have looked like. The agreement should be submitted with the applicant's self-reflective piece.
8. The assessment candidates may be asked to play a support role in other role-play assessments on the day.
9. Each candidate will be informed of the outcome of their assessment within 25 working days of their assessment.
10. A review process (*Appendix 7*) is available in the event of dispute as to the outcome of assessment.

Note:

For schedule of MII Certified Member assessments please refer to the Certified Member section of the MII web site.

MII Assessment fee: €250

Preparation in Advance of Certified Member Assessment

Assessment candidates are advised to familiarise themselves with the Certified Member Core Competencies (Appendix 2) and the Certified Member Assessment Guidelines which outline the competencies and assessment criteria on which they will be assessed.

Contact from Assessor Prior to Assessment Day

The assessing body - the training provider in the case of Approved Role-play Assessments and the MII in the case of MII Certified Member Assessments - will send you a case study for which you will play the Mediator one week prior to Assessment Day. You will have a chance to study this and prepare for your written and role play assessment.

On-the-Day Review of Steps Taken

On the assessment day, at the commencement of your role-play assessment you will be given up to 15 minutes to describe to the Assessor steps taken in setting up the mediation. This will not be recorded on video but will be part of the assessment.

Items for consideration include:

Initial Contact:

- Initial contact in relation to the request for you to act as Mediator.
- Briefing meeting/discussion with the contracting organisations/party:
 - Core principals of mediation
 - Mediation process
 - Possible outcomes
 - Reporting and feedback (where the contracting organisation is not a principal party to the mediation)
- Initial contact with parties to the mediation:
 - Who you contacted
 - How the contact was made
 - The nature of the contact
 - Key messages and/or information to the parties
- What documents did you procure, if any?
- What documents did you give to those with who you were in contact?
- What questions did you ask at this initial stage?
- What arrangements did you make?

Agreement to Mediate:

- What headings did your Agreement to Mediate cover?

Pre-mediation Meetings:

- Did you meet the parties separately, if so, why?
- What questions did you ask at this stage?
- What information did you give to the parties?

Appendices

The following appendices include a copy of the MII Code of Ethics, Certified Member Core Competencies, Certified Member Assessment Guidelines and copies of MII assessment forms.

While these documents are current at time of publication they are subject to ongoing development and are for reference purposes only. *For the latest information and MII forms, please refer to the MII web site. If you have any queries, please contact the MII.*

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Appendix 1:

MII Code of Ethics and Practice

For online version go to themii.ie/code-of-ethics.jsp.

Background/General Information

Purpose of Code

1. **The Mediators' Institute of Ireland** (The MII) is the professional organisation for Mediators. It is a not-for-profit organisation which promotes the use of mediation as a process in all areas of dispute resolution and prevention by ensuring high standards of education, training, ethics and professional practice of mediation and by increasing public awareness of mediation. It believes its standards of education training and ethics are in accordance with European standards.
2. In order to meet this objective, the MII has drawn up this **Code of Ethics and Practice** to provide clear information to those wishing to use mediation as the basis on which the mediation will be conducted and to provide ethical and practical guidance for Mediators in their work.

Member Requirements and Scope of Code

3. All Practitioner, Certified, Associate, General and Trainee members of the MII agree to be bound by the Code of Ethics and Practice. In the event of an issue arising in relation to a member's alleged breach of this Code, the matter may be subject to disciplinary process.
4. We have attempted to cover as many aspects of mediation and the process as possible in this Code. However it must be understood that every mediation is unique and its very success depends on its retaining its flexibility. Every Mediator will mediate differently to every other Mediator and will mediate each of their cases differently depending on the type of mediation, the subject matter of the mediation and the interaction of all of the people in the Mediation Session and on their own training and experience.
5. It is not possible to cover every scenario and, further, there may be occasions when the particular situation requires a different approach. Although, generally, a mediation will go through some or all of the steps below some mediations may not allow for that approach or may not allow for the steps to be gone through in that order. It is the Mediator's decision as to how the mediation should proceed taking all of the circumstances into account.
6. There is no "right" process or "right" way to mediate and, in the event of an issue arising in relation to a particular mediation, the totality of the mediation will have to be taken into account in assessing whether there was a breach of this Code of Ethics and Practice.
7. Only Mediators who hold a current MII practising certificate are approved by the MII to mediate. To obtain and retain a practising certificate for the current year the member must have carried out a minimum period of training, have passed an assessment of competence and skills, have appropriate professional indemnity insurance, have agreed to be bound by the then current disciplinary and complaints procedures and have agreed to be bound by the then current Code of Ethics and Practice.
8. Mediators with practising certificates must only practice within their level of competence. That level of competence will be different for each Mediator depending on their qualifications, their further education, their experience and their reflective practice. They may be more competent at one type of mediation than another. They may practice in one area of practice or in more than one area. Whether they are or were competent in any particular case will depend on the facts of the case reviewed in hindsight. On occasion the MII may designate particular courses that will need to have been attended by the Mediator to be

deemed “competent” to practice in particular areas of practice.

Definitions and Explanations

9. **Mediation** – A process in which an impartial and neutral third party facilitates communication and negotiation and promotes voluntary decision-making by the parties to prevent or resolve a dispute and to assist them to reach a mutually acceptable solution.
10. **Aim of Mediation** – The aim of mediation is to assist the Clients and / or Parties to prevent or resolve a broad range of conflicts within a variety of settings and to facilitate improvements to future relationships, where appropriate.
11. **Fundamental Principles of Mediation** – The fundamental principles of mediation are that it is a voluntary process, that confidentiality applies to the process, that the Mediator is and remains impartial and neutral, that the parties have the right of self determination and decide on their own solutions rather than having a solution imposed on them. The participants will treat each other and the process with respect (see below for detailed provisions).
12. **The MII Mediator** – A trained and accredited professional who facilitates the process of mediation whilst acting at all times in accordance with the principles of impartiality, integrity, fairness and confidentiality, with respect for all parties involved in the mediation. Only Mediators who hold a current MII Practising Certificate are approved to practice by the MII. A list of Mediators holding a current practising certificate can be found on the website
13. Where two or more MII Mediators work together with the Clients and/ or Parties in a mediation, this Code of Ethics and Practice applies equally to those Mediators.
14. The Mediator is neither a Judge nor an Arbitrator. The Mediator does not decide or indicate who is right or who is wrong.
15. **Competence** – The Mediator may only mediate where they have the appropriate training, knowledge and competence to effectively mediate in the dispute.
16. If during the mediation, a Mediator feels they are moving outside their level of competence they should take one or more of the following steps :- inform the Parties, pause the mediation, seek advice, and introduce a co-Mediator or alternative Mediator(s) or other person, advisor or expert or withdraw from the mediation. The Mediator shall have regard to the needs of the Parties. A Mediator’s competence will be judged in relation to the particular facts of the case.
17. Every Mediator is required to be aware of the law relating to how they conduct their personal professional practice and, where appropriate, codes of practice, guidelines and regulations. In particular where the Mediator’s practice brings them into the area of Child Protection, elder abuse, self-harm, abuse or welfare issues, the Mediator must inform themselves of any appropriate policies and guidelines.
18. **The Parties** – The parties to a mediation. The party may be an individual, a corporate entity, an organisation or a group of people who are directly involved in the Mediation Process. There may be more than two Parties to a mediation.
19. **The Client** – The person, corporate entity, organisation or service provider who arranges, and sometimes pays for, the mediation to take place. The Clients may or may not be a Party and may or may not be directly involved in the mediation process.
20. **Mediation Process** – The Mediation Process is the process which involves the Mediator and starts at the first contact between the Mediator and the Client, Party or the Expert (whichever is first) and ends when the Mediator closes their file.
21. **Mediation Session** – the actual session(s) when the Parties and the Mediator are mediating to assist the Parties to arrive at a mutually acceptable agreement.

22. **A Service Provider** – The organisation who provides a Mediator for the mediation. The service provider can operate either for profit or not-for-profit, may itself directly employ or may contract Mediators and the Mediators may be paid by the service provider or may mediate for no charge to either the service provider or the Client or the Parties.
23. **An Expert (Advisor, Representative)** – A person whom either party brings to any Pre-mediation Session and/ or the Mediation Session (by agreement of the Parties and the Mediator) to advise them in relation to the content of the mediation and the outcomes. Although sometimes described as “a representative” the individual is not there in a representative capacity. Their role is to advise and assist the Party and to input into the mediation as the Mediator believes would be beneficial to the process. The Expert does not usually act as an advocate for the Party. Ground rules relating to their participation in the Mediation Process should be agreed at the start of the Mediation Session. They are bound by the same confidentiality provisions as all of the other participants in the mediation. Consent to the attendance of an Expert may not be unreasonably withheld.
24. **A Supporter** – A person who attends any Pre-mediation Session and the Mediation Session (by agreement of the Parties and the Mediator) in a support role to one of the Parties. They play no active role in the proceedings (except where the Mediator believes it beneficial to the process). They are bound by the same confidentiality provisions as all of the others in the mediation. Consent to the attendance of a supporter may not be unreasonably withheld.
25. **A Trainee Mediator** A person who is learning to become a Mediator. One of the ways of making Mediators or trainee Mediators more proficient is for them to be present at (but not necessarily taking part in) a mediation and, in particular, at a Mediation Session. Permission must be given by the Parties and the Mediator if a Trainee Mediator wishes to sit in at a Mediation Session. At the beginning of the Mediation Session ground rules in relation to the Trainee Mediator should be agreed and the Trainee Mediator should sign and be bound by the Agreement to Mediate.
26. **Mediation Process** The commencement of the Mediation Process may give rise to the Statute of Limitations or other Statutory time limits being suspended in particular circumstances and the onus is on the Parties to inform themselves in relation to this and to make themselves aware of the consequences.
27. Any agreements made between the Parties within the Mediation Process will last after the Process has finished unless otherwise agreed.
28. There is no set format for a mediation and it is up to each Mediator to decide what the Mediation Process should be in each case. In making that decision the Mediator will take account of the general principals and practice of mediation. There may or may not be a pre-mediation meeting, there may be a joint meeting with all of the Parties within or throughout the Mediation Session(s), the Mediation Session (s) may be with the Parties not meeting at all; the Mediation Session may be split into a number of shorter sessions over a period of weeks, months or years or the Mediation Session may last all day or into the night. There may or may not be a review meeting held at some stage after the Mediation Session(s) have terminated.
29. **Agreement to Mediate** – The written or oral contract for mediation between the Mediator and the Parties and other participants at the Mediation Session setting out the terms and conditions on which the mediation will take place. There may be very particular circumstances when the benefit and value of the flexibility and immediacy of mediation would be restricted by the requirement to have an Agreement to Mediate and in such instances, the having of an Agreement to Mediate would be removed. However in such circumstances the Mediator will, if appropriate, do their best to introduce an Agreement to Mediate later in the process.
30. Where appropriate the terms on which the mediation is to take place must be agreed in advance between the Mediator, the Client and/ or the Parties, including details of all fees and the confidentiality of mediation. It must also include an agreement by the Client and/or

the Parties not to call the Mediator as a witness and the agreement of the Mediator to abide by The MII Code of Ethics & Practice. It should be in writing and signed by the Mediator and all the Parties. Other participants involved in the Mediation Process, should also sign the Agreement to Mediate.

31. Where there is an Agreement to Mediate it is a binding contract, whether in writing or not. The Mediator must clearly explain the obligations that Parties are agreeing to before they agree to mediate.
32. **Client Agreement** – If the Mediator is instructed by a Client to act in the mediation, the terms on which the mediation is to take place must be agreed in advance between the Mediator and the Client including details of all fees, methods of payment and the confidentiality of the mediation.
33. It must also include an agreement not to call the Mediator as a witness and the agreement of the Mediator to abide by the Code of Ethics & Practice.
34. **Mediated Agreement or Note of Understanding** – The written or oral agreement reached by the Parties within the Mediation Process. It sets out the terms on which the Parties have reached agreement during the mediation. A Mediated Agreement can be interim, partial or a complete agreement. It may be in writing.
35. The Mediated Agreement or Note of Understanding should state whether the terms are legally binding or not.
36. **Pre-mediation** – The meeting sometimes held before the Mediation Session with each Party and the Mediator. A pre-mediation meeting is not always held but when it is it may be some time before the mediation session (e.g. a week) or immediately preceding the Mediation Session. The purpose of the pre-mediation meeting is to allow the Party to tell the Mediator in confidence their story or version of events and to enable the Mediator to explain the Mediation Process and how it works and to assess whether the matter is a suitable matter for mediation.

Fundamental Principles

Confidentiality

37. **Confidentiality** – The Mediator is obliged to explain to the Clients, the Parties and any Experts and Supporters the principles of confidentiality and how the rules in relation to confidentiality operate.
38. Mediation is confidential. The Mediator must not disclose, other than to the Client, that the mediation is taking place. No participant in the Mediation Process or in a Mediation Session may disclose anything discussed unless required to do so by law, or to a case consultant or unless all the Parties and the Mediator agree that this can be done. The confidentiality belongs to the Mediator as well as to the Parties and the Client. Even if the Parties and/or the Client wish the Mediator to lift the obligation of confidentiality, that will not happen unless the Mediator agrees to do so. The Mediator is not obliged to give reasons as to why the confidentiality is, or is not, being lifted.
39. Confidentiality for a Mediator and any Trainee in a mediation starts from the beginning of the Mediation Process and is an implied term, effective immediately from the start of the Mediation Process and all discussions and related communications should be treated as being “without prejudice” unless otherwise agreed or advised.
40. It is accepted that in some types of mediation the rules of confidentiality may differ slightly from the above. In the event of any issue arising in relation to confidentiality, the nature of the mediation and the “normal” rules for that type of mediation will be taken into account.
41. **Confidentiality: Separate Meetings/Caucus Meetings** – All matters discussed in separate meetings or phone conversations during the Mediation Process are confidential to those

included in those discussions except where express permission has been given for all or some of the information to be shared with the other Parties, with the Client or for the purposes of obtaining legal or other advice.

42. **Confidentiality – Clients** (where the Client is not a Party) Neither the Mediator nor the Parties shall give any information (except as below) regarding the Mediation Process or content to the Client unless agreed by all of the Parties. The Mediator may inform the Client of the length of the mediation (for the purposes of costs) of any review meeting or subsequent Mediation Sessions and whether or not agreement has been reached. If other information is to be given by the Parties or the Mediator to the Client it should be agreed exactly what information may be given and who is to give it
43. **Confidentiality of Communications between Mediator, the Client and the Parties –** Where, during the Mediation Process, the Mediator has a discussion or written exchanges with one party, they should not reveal the contents of those communications to the other party except with the express agreement of the first party. The Parties are not entitled to see any written exchange of communications between the Mediator and the Client or the Client's Experts or between the Mediator and the other Party.
44. **Notes and Flip Charts from the Mediation Process –** all involved in the Mediation Session are encouraged not to take verbatim notes. The Mediator should agree at the beginning of the Mediation Session with all of those involved as to what is to happen to any notes taken and the flip chart pages.
45. **Recording devices –** mobile phones, cameras, tape recorders must be turned off during the Mediation Session. No photographs may be taken of the flip chart notes unless by agreement of all participants. The Mediation Session may not be recorded.
46. **The Mediator's Notes–**The Mediator's own notes of the Mediation Process are the property of the Mediator and may not be disclosed to the Parties or the Clients, except as required by law.
47. **Experts and Supporters –** The Mediator shall ensure that any Experts or supporters involved in the mediation are bound by the same terms of confidentiality as the Parties.
48. **Agreement to Mediate and Mediated Agreements –** These agreements are confidential to the signatories. The Parties to them may have to use the Agreement to enforce a term of the agreement or to seek redress in the event of a breach of the Agreement. In that event the confidentiality over the Agreement is waived except as required by law. It will also be waived in the event of a complaint or claim being made against the Mediator.
49. The Parties may agree that some or all terms of their Agreement to Mediate or Mediated Agreement can be disclosed and to whom. In the event of a dispute as to what information is to remain confidential and what may be disclosed the Parties may go back to mediation to enable agreement to be reached.
50. **Exceptions to Confidentiality –** A Mediator may have to breach confidentiality without the consent of any or all of the Clients and / or Parties in the following circumstances:
 - i. When there is a concern that a child may be at risk
 - ii. If required to do so by law.
 - iii. To enable the Mediator to defend themselves from a complaint, disciplinary process, negligence or other proceeding against them arising from the mediation.

In relation to i and ii above it is the duty of the Mediator to inform themselves of appropriate policies guidelines and the law.

51. **Complaints, Disciplinary Process, Legal Action –** If a Mediator requires to defend themselves against a complaint, disciplinary process or any other legal or other action arising out of a Mediation Process they may, without the prior approval of the Client or any Party or other person or body, disclose items that occurred within the Mediation Process but

only to such an extent as to respond to and answer matters raised against them.

52. **Legal Privilege** – There is no legal privilege covering mediation unless specifically referred to in statute and therefore there is no right not to disclose to a Judge what occurred in a Mediation Process if asked. However as a matter of public policy Judges may refrain from questioning the Mediator but they are entitled to do so and, if they insist on a response, a Mediator would be obliged to answer or risk being in contempt of Court. It is open to the Mediator to refer to the Agreement to Mediate and, as appropriate, to the Mediated Agreement and to seek to explain to the Judge the fundamental principle of confidentiality in the Mediation Process. Mediators will be governed by the current law in relation to privilege and confidentiality.
53. **Waiver from Mediator Giving Evidence** – The Mediator, the Client and/or the Parties can agree in the Agreement to Mediate that the Mediator will not be called to give evidence as a witness in any forum in relation to the Mediation Process and that the Parties shall not call for the production of any notes or documents that the Mediator has in connection with the Mediation Process.
54. **Reflective Practice: Supervision/Case Consultancy/Mentoring/Sharing and Learning** Mediators are encouraged to improve their professional practice by reflecting on their performance in their mediations and reflective practice is a requirement of Continuing Professional Development. This reflective practice can either be carried out in one-to-one sessions or in group sessions at the option of the Mediator. For the purpose of this reflective practice the Mediator may disclose anonymised information arising in any mediation that they have been involved with provided that they do so in such a way that the identity of any of the Clients or Parties cannot be ascertained from the information given. The onus is on the Mediator to ensure that those others involved in the reflective practice are also bound by confidentiality.
55. **Trainers & Trainees** – Any trainer and trainee using real cases by way of example for teaching purposes should ensure the identity of the Client and the Parties is protected. Any person learning the identity of a Client or Party has a duty to maintain the confidentiality of such information.

Impartiality and Neutrality

56. **Impartiality and Neutrality** – The Mediator must act and be seen to act in an impartial manner throughout the process of mediation. Impartiality means freedom from favouritism, bias or prejudice. The Mediator must not take sides. If a Mediator believes that they cannot remain impartial they shall terminate the mediation.
57. The Mediator must remain neutral as to the content and the outcome of the mediation. Nothing shall prevent the Mediator from talking to, phoning, communicating with or meeting one Party with or without the knowledge of the other Party provided it has been explained to the Parties that this might happen and that impartiality and neutrality are maintained.

Respect

58. **Respect** – An underlying and fundamental principle of the Mediation Process is respect between the Mediator and the Parties and of the process. If this respect is missing in the process and the Mediator believes that the lack of the respect is or is likely to affect the process the Mediator may terminate the mediation.

Self-Determination

59. **Self Determination** – The Parties make the decisions in relation to the outcome of the mediation. The Mediator is there to help that process - The content and outcome of the mediation belongs to the Parties.
60. The Mediator is in charge of the process and decides how the mediation process should

proceed.

61. **Informed Decision-Making** – Mediation is based upon the principle of informed decision-making. The Parties are asked to disclose all relevant information during the mediation. On occasion, particularly in separation of assets mediation, they may be asked to swear a Statutory Declaration in relation to their assets.

Voluntary Participation

62. **Voluntary Participation** – Mediation is voluntary. Any party to mediation including the Mediator may leave the process at any time without having to give reasons.
63. All MII Mediators are governed by this Code of Ethics & Practice, except as provided by law. The terms of this Code (or any subsequent Code) apply to every MII mediation from the beginning of the process.

Nature and Purpose of Mediation

64. **Nature & Purpose of Mediation** – As soon as practicable after the beginning of the Mediation Process, and as appropriate, the Mediator must provide the Parties and Client with an explanation of the nature, purpose of and the fundamental principles of mediation. This may be provided in writing. The Mediator should also explain how the mediation is to be carried out

Fees

65. **Fees** – If fees are payable, prior to the Mediation Session the Mediator must clearly explain to the Client or the Parties, whoever is paying the fees, to the person(s) or organisation paying the fees how the fees, outlays, VAT and charges are calculated. The options for paying the fees should also be discussed.
66. The fees charged may take account of the type of mediation, the complexity of the matter, the expertise of the Mediator and the time required. Some Mediators charge on an hourly basis, some on a half-day basis, some on a whole-day basis, or a combination of these. Some Mediators will not charge any fee. Some Mediators will look for payment on account in advance. Some may charge a minimum fee.
67. The Mediator shall not enter into a fee agreement which depends on the result of the mediation.
68. Terminating the Mediation – At whatever stage the Parties leave or end mediation, they or the Client must pay all fees due to the Mediator to that point.
69. Due to competition and restrictive practice law, the MII is not allowed to obtain, hold or give out details of charges of any Mediators. Mediators should not fix levels of fees with other Mediators.

Advice from Other Professionals

70. **Advice from Other Professionals** – The Parties are free to take whatever advice they require before, during, and in coming to agreement, and the Mediator will allow time for this if requested. The onus is on the Parties not on the Mediator to ask for time for this to happen.
71. **Conflict of Interest** – The Mediator must not proceed or continue with mediation if they decide that a conflict of interest arises and that it would be inappropriate for them to continue with the mediation. If the Mediator is unsure as to whether a conflict of interest exists, they should contact their practice consultant/supervisor or The MII Ethics and Standards Committee.

72. If the Mediator or one of the Parties believes that a conflict of interest might exist or might be perceived to exist, the Mediator together with the Parties must discuss whether it is appropriate for the Mediator to continue their involvement.

Insurance

73. **Insurance** – The Mediator must have appropriate Professional Indemnity Insurance or have the risk underwritten to cover their mediation practice and must make a declaration annually to The MII to this effect. The Mediator is responsible for ensuring that their insurance cover is adequate. If requested by the Parties or the Client, the Mediator must provide details of their professional indemnity insurance and their qualifications.

Providing Information

74. **Providing Information** – The Mediator must inform the Parties how they may obtain a copy of the Code of Ethics and Practice if required.

Record Keeping

75. **Record Keeping** – The Mediator must ensure that any mediation records are stored securely and must decide what papers to keep and for how long. A Mediator may belong to another institute or organisation and may have other requirements in relation to record keeping.
- The MII recognises that there are different and valid views of Mediators as to whether or not the file, the Mediator's notes and any papers in the mediation should be retained after the mediation process is finished and if so, for how long. The onus is on each Mediator to seek their own advice and come to their own decision on this.
 - The Mediator must be aware of all relevant legislation relating to recording and storage of personal information, especially the Freedom of Information and the Data Protection legislation, and how it applies to their own mediation work.
76. If requested, the Mediator must inform the Parties and Client about their entitlements to access information recorded about them.

Termination of Process

77. **Termination** – The Mediator may terminate the Mediation Process if in their sole discretion they believe that they or one of the Parties may be at risk or that the Parties do not have an appropriate level of respect for the Mediator or mediation process.

Complaints

78. **Complaints** – The Mediator agrees to be subject to then current MII Complaints Procedure, Disciplinary Procedure, and Appeals Procedure, except where prohibited by law and agrees to make these the Parties and /or Clients aware of these procedures in the event of any issues arising. Where a query, issue or complaint is raised with the MII, the MII reserves the right to give primary reliance to the MII Code of Ethics and Practice.

Continuing Professional Development

79. **Continuing Professional Development** – Continuing Professional Development is an essential and mandatory requirement for all Certified and Practitioner Mediators.
80. The Mediator shall, at a minimum, comply with The Mediators' Institute of Ireland's current requirements for CPD. They should attend educational programmes and related activities to

maintain and enhance their knowledge and skills related to mediation. The Mediator will continue their professional education and be personally responsible for their ongoing professional development.

Practising as a Mediator

81. **Practising as a Mediator** – To practice as a Mediator a member must meet the current accreditation requirements and must only practice within their competence.

Advancement of Mediation

82. **Advancement of Mediation** – The Mediator should be committed to the advancement of mediation and raising public awareness of mediation as a type of dispute resolution.
83. The Mediator will actively support the MII and encourage non-MII Mediators to join the organisation.

Advertising and Promotion

84. **Advertising** – The Mediator will be truthful in advertising for mediation and must honestly represent the services on offer, qualifications, experience and fees.
85. The Mediator will not promise or guarantee results and should not advertise information about settlement rates.
86. The Mediator will not advertise in any way which contradicts the principles of mediation as laid out in the Code of Ethics & Practice.

MII Nomenclature and Designations

87. **MII Nomenclature and Designations** – The Mediator will only use MII designations of membership categories and approved letters when describing themselves in relation to the MII. They may only use such designation and category as are appropriate to their MII accreditation. The MII may from time to time introduce different categories of membership or change nomenclature in respect of categories of membership.
88. The Mediator shall not do anything that brings the MII into disrepute and shall treat the organisation, its Council, its committees and its members with respect and shall not do anything that undermines the organisation.

Council and Committees

89. **Council and Committees** – Where serving on Council or on an MII committee the Mediator will put aside self-interest and will act in the best interests of the MII. The Mediator will declare any conflict of interest they may have. The Mediator will use their best endeavours to work as part of the cohesive whole of the Council and/or Committee for the best interests of the MII abiding by any ground rules or standing orders agreed by the Council and / or Committee.

As approved by MII membership on 16 December 2009.

Appendix 2:

Certified Member Core Competencies

Introduction

The standards identified in this report define the core competencies required of Certified Mediators in a wide range of settings and contexts. While Mediators may be drawn from many different sources, the core requirements to effectively conduct mediation are the same. The standards therefore do not propose different levels or categories for Certified Members.

The standards relate to the actual conduct of mediation sessions where all parties are present. They do not relate to pre-mediation intake functions such as initial contact with the parties and scheduling of sessions, nor to post-mediation follow up. It is recognised that Mediators need to be proficient in performing these functions, but such functions may be carried out by Mediators themselves or by other specially trained personnel, and are not part of the core competencies for Mediators.

Core Competencies:

A. Managing the Relationship in Mediation

- Establishes and maintains a respectful trusting and balanced relationship with the participants by:
 - Creating rapport
 - Respecting the participants
 - Encouraging mutual respect among all participants
 - Being objective and impartial in style
 - Modelling '*advanced communication skills*' with co-Mediator
- Demonstrates key Mediator skills and qualities (*e.g., listening, questioning, assertiveness, observation, tolerance, openness, honesty etc.*)
- Encourages the participants' self determination
- Facilitates a collaborative relationship between the participants
- Enables the participants hear each other's stories
- Enables the participants develop a relationship with the Mediator(s) and if feasible, with each other in the room, whereby they express feelings and become "*real*" to each other
- Encourages use of preferred names
- Recognises and acknowledges conciliatory gestures and concessions (*'gifts'*)
- Facilitates expressions of regret and apology between the participants
- Enables the participants explore their future relationship, if relevant

B. Managing the Process of Mediation

- Deals effectively with initial resistance to mediation
- Ensures participants have a clear understanding of the structure of mediation, process and roles
- Where applicable, assists the participants in negotiating the process, ground rules and agenda for mediation sessions
- Manages the introduction process in a respectful, balanced and clear fashion
- Works effectively with co-Mediator in controlling the stages of the process
- Attends and explores participants' concerns and empathises with feelings
- Enables the development of each participant's story
- Encourages participants to openly converse
- Manages the separation of issues into an agenda
- Assists participants in understanding the consequences of their plans
- Assists participants with option building, broadening the number or scope of options
- Empowers the participants to explore and find their own ways forward
- Manages the creative discussion of possible ways forward

- Ensures participants have a clear understanding of expectations in relation to preparation and delivery of the joint meeting
- Assists participants in exploring and reality-testing alternatives to mediation
- Manages impasse, resistance, or difficult behaviour
- Demonstrates appropriate use of joint meetings and Caucus
- Works with power imbalance or control issues
- Handles intense emotions
- Displays flexibility and uses creative strategies effectively
- Assists participants with reality testing next steps, particularly through the use of questioning and consultation with other agencies where appropriate
- Enables the participants develop clarity about their concerns
- Facilitates Agreement
- Writes Agreement
- Enables participants to complete a service evaluation
- Engages in '*evaluative feedback*' session with co-Mediator

C. Manages the Content of the Mediation

- Obtains, identifies, organises, analyses, prioritises and evaluates information
- Assess the issues and options and reason logically
- Reads, comprehends and uses relevant written materials
- Write clearly and concisely, using neutral language
- Organises records and materials
- Asks the participants to elicit information from other professionals (*such as appraisers, actuaries, accountants, mental health professionals, child protection professionals, lawyers*) with the objective of broadening rather than limiting the participants' options

D. Managing the Self

- Demonstrates mastery of mediation process
- Demonstrates an awareness of ethical issues
- Engages in ongoing assessment of appropriateness of case for mediation
- Demonstrates appropriate level of skill, competence, and effectiveness
- Demonstrates ability to work with co-Mediator and clients
- Demonstrates ability to self reflect.

MII, May 2009

Appendix 3:

Certified Member Assessment Guidelines

Guidelines on Assessing Certified Mediator Skills and Qualities

Competency comprises the specification of the knowledge and skill, and the application of that knowledge and skill to the standard of performance required. The concept of competency includes all aspects of performance. It includes:

- Performance at an acceptable level of skill
- Organising tasks
- Responding and reacting appropriately when things go wrong
- Fulfilling a role
- Transfer of skills and knowledge to new situations.

For these standards mediation is defined as:

A process in which an impartial and independent third party facilitates communication and negotiation and promotes voluntary decision-making by the parties to a dispute to assist them to reach a mutually acceptable solution.

MII Code of Ethics

The standards identified in this assessment record define the core competencies required of Mediators in a wide range of settings and contexts. While Mediators may be drawn from many different sources, the core requirements to effectively conduct mediation are the same. The standards therefore do not propose different levels or categories for Mediators. However, different sectors may adopt additional specialist requirements which they regard as necessary to effectively carry out mediation in their particular field.

The standards relate to the actual conduct of mediation sessions where all parties are present. They do not relate to pre-mediation intake functions such as initial contact with the parties and scheduling of sessions, nor to post-mediation follow up. It is recognised that Mediators need to be proficient in performing these functions. But such functions may be carried out by Mediators themselves or by other specially trained personnel, but are not part of the core competencies for all Mediators.

Evidence should be sought that:

- Competence is demonstrated by performance in two contexts: knowledge and use of process
- Competence is demonstrated through direct observation of real or simulated performance
- Mediation is congruent with agreed definitions of mediation
- The Mediator uses professional judgement to apply the process in a flexible manner that maintains the integrity and transparency of the process
- Full consultation with any co-Mediator is used at all times throughout the mediation
- Mediators have underpinning knowledge of:
 - Relevant current legislation, where applicable
 - Ethical guidelines
 - Cultural factors relevant to the Mediator's area of responsibility

This should be defined in the self-reflective piece produced after the role-play.

Observations of performance should be used to assess the following core areas for assessment:

- Managing the Relationship in Mediation
- Managing the Process
- Managing the Content
- Managing the Self

Observations of performance should be used to assess the following interventions as relevant for each of the core areas identified above. Assessors will seek evidence, as appropriate to the case, that Mediators are competent.

1. Neutral and impartial Process Facilitation

- Provide time and attention for all parties with adequate consideration of parties' needs
- Check physical comfort of parties periodically
- Arrange breaks during session, as needed
- Note social or personal characteristics which may impact on the mediation
- Choose strategies appropriate to individual cultural and social situations
- Ensure that parties determine content of discussions throughout mediation
- Consider individual values which have an impact on communication and relationships

2. Promotion of Communication and Co-operation Between Parties

- Use equipment in a manner that caters to the individual needs of parties
- Paraphrase, ask clarifying questions and summarise to assist parties to feel heard
- Use a range of rapport-building strategies, such as adapting terms used, pace or volume of speech to suit the language level of the parties and acknowledging non-verbal behaviour
- Guide communication flow directly between parties, from agenda setting stage through to close of mediation, excluding private session
- Manage interruptions effectively
- Remind parties about agreed ground rules if other interventions are ineffective
- Raise questions between parties about feelings and specific behaviours to encourage constructive expression of emotions and prevent escalation of conflict
- Encourage parties to describe their understanding of others' statements about feelings, needs and ideas
- Use fact finding questions to meet parties' needs
- Model teamwork when co-mediating by:
 - o Openly observing progress of mediation and relevance of discussion to agenda topic/s and checking about any proposed action
 - o Openly consulting with co-Mediator
 - o Referring to co-Mediator's statement or questions
 - o Maintaining non-verbal contact with any parties not directly communicating with another party or Mediator(s).

3. Paraphrasing and Summarising

- o Listen effectively to stated or indicated feelings
- o Show sensitivity to scope and intensity of issues
- o Focus on agenda items
- o Reflect the stages of the mediation process
- o Acknowledge the need to build rather than impose options
- o Indicate common ground between parties
- o Use silence and other non-verbal communication strategies
- o Maintain balanced communication which flows directly between parties
- o Clarify between parties the effects of past events relating to dispute issues
- o Elicit from parties paraphrased summaries of others' expressed thoughts, feelings or ideas on agenda items.

4. Consistent Application of Agreed Mediation Process

- o Apply stages sequentially, by balancing process with client needs
- o Use communication flow appropriate to stage of mediation
- o Explain movements between stages and any variation to the process

- Focus specifically on past, then present and future while facilitating exploration of each agenda issue
- Refer to agenda to guide movement through and adaptation of process through use of summary
- Manage contingencies in keeping with process requirements and agency guidelines
- Act as an agent of responsibility and reality for the parties
- Use of shuttle negotiation where appropriate.

5. Termination of Session

- Reflection on options prior to consideration of termination
- Check with co-Mediator about terminating, as appropriate
- Consideration with the parties on termination outcome, as appropriate
- With respect for confidentiality of any private session or other non-mediation disclosures

As a result of screening, assert any need for termination.

Appendix 4: (Copy for reference purposes only – actual form can be downloaded from MII web site at www.themii.ie/certified-assessment.jsp)

Certified Member Assessment Form

Section I: Background Information

Name of Mediator (Candidate): _____

Name of Assessors: _____

Phone: _____ E Mail: _____

Section II: Mediation Information

Date of Assessment: _____

Nature of Case: _____

Length of Mediation: _____

Comments:

Scale To Measure - Level of Participation

The following rating scales should be used to determine an overall rating under each area. Below each of the area headings are listed several factors to consider in making a rating. Assessors are asked to measure each area by circling the observed competencies on a scale of 1 through to 5 as follows:

5 – Very Good Standard: *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using all of the relevant interventions in each assessment area.*

4 – Good Standard: *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using most of the relevant interventions identified in each assessment area.*

3 – Satisfactory: *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using the relevant interventions identified in each assessment area.*

2 - Needs improvement: *The candidate has not displayed the skills and knowledge which indicate they have the ability to conduct mediation as they have failed to demonstrate appropriate use of the relevant interventions.*

1 – Unacceptable: *The candidate has failed to display most or all of the skills and knowledge which indicate they have the ability to conduct a mediation. The candidate has used few if any of the appropriate interventions in each assessment area.*

Please circle one.

Under the “Comments” section, **discuss specifically** those areas completed successfully or needing improvement.

Candidates must demonstrate a satisfactory rating in all areas to pass

Because the process will generally be unfolding candidates will usually only be able to demonstrate **SOME** of the qualities and skills set out below.

Candidates need to evidence the required knowledge, skills and values through the recorded role-play and their reflective assessment. Where the recorded role-play does not allow for specific skills to be demonstrated, the candidate should evidence their awareness of this and how these might be demonstrated in other situations.

Assessment Form

Please type or print clearly – Use additional paper if needed.

A. Managing the Relationship in Mediation

- Establishes and maintains a respectful trusting and balanced relationship with the participants by:
 - Creating rapport
 - Respecting the participants
 - Encouraging mutual respect among all participants
 - Being objective and impartial in style
 - Modelling '*advanced communication skills*' with co-Mediator
- Demonstrates key Mediator skills and qualities (e.g., *listening, questioning, assertiveness, observation, tolerance, openness, honesty etc.*)
- Encourages the participants' self determination
- Facilitates a collaborative relationship between the participants
- Enables the participants hear each other's stories
- Enables the participants develop a relationship with the Mediator(s) and if feasible, with each other in the room, whereby they express feelings and become "*real*" to each other
- Encourages use of preferred names
- Recognises and acknowledges conciliatory gestures and concessions ('*gifts*')
- Facilitates expressions of regret and apology between the participants
- Enables the participants explore their future relationship, if relevant

Overall Rating (please circle one): 1 2 3 4 5

Comments:

B. Managing the Process of Mediation

- Deals effectively with initial resistance to mediation
- Ensures participants have a clear understanding of the structure of mediation, process and roles
- Where applicable, assists the participants in negotiating the process, ground rules and agenda for mediation sessions
- Manages the introduction process in a respectful, balanced and clear fashion
- Works effectively with co-Mediator in controlling the stages of the process
- Attends and explores participants' concerns and empathises with feelings
- Enables the development of each participant's story
- Encourages participants to openly converse
- Manages the separation of issues into an agenda
- Assists participants in understanding the consequences of their plans
- Assists participants with option building, broadening the number or scope of options
- Empowers the participants to explore and find their own ways forward
- Manages the creative discussion of possible ways forward
- Ensures participants have a clear understanding of expectations in relation to preparation and delivery of the joint meeting
- Assists participants in exploring and reality-testing alternatives to mediation

- Manages impasse, resistance, or difficult behaviour
- Demonstrates appropriate use of joint meetings and Caucus
- Works with power imbalance or control issues
- Handles intense emotions
- Displays flexibility and uses creative strategies effectively
- Assists participants with reality testing next steps, particularly through the use of questioning and consultation with other agencies where appropriate
- Enables the participants develop clarity about their concerns
- Facilitates Agreement
- Writes Agreement
- Enables participants to complete a service evaluation
- Engages in 'evaluative feedback' session with co-Mediator

Overall Rating (please circle one): 1 2 3 4 5

Comments: _____

C. Manages the Content of the Mediation

- Obtains, identifies, organises, analyses, prioritises and evaluates information
- Assess the issues and options and reason logically
- Reads, comprehends and uses relevant written materials
- Write clearly and concisely, using neutral language
- Organises records and materials
- Asks the participants to elicit information from other professionals (*such as appraisers, actuaries, accountants, mental health professionals, child protection professionals, lawyers*) with the objective of broadening rather than limiting the participants' options

Overall Rating (please circle one): 1 2 3 4 5

Comments: _____

D. Managing the Self

- Demonstrates mastery of mediation process
- Demonstrates an awareness of ethical issues
- Engages in ongoing assessment of appropriateness of case for Mediation
- Demonstrates appropriate level of skill, competence, and Effectiveness
- Demonstrates ability to work with co-Mediator and clients
- Demonstrates ability to self reflect.

Overall Rating (*please circle one*): 1 2 3 4 5

Comments:

Section IV: Recommendations

1. Based on the candidate's performance and case submission do you recommend that this person for certification? *Please comment:*

2. Does this candidate need additional training, and/or additional experience mediating?

Signature of Assessors:

Date:

Please provide the original assessment to the agency arranging the mediation assessment.

Thank you for contributing to The MII Mediator Certification Programme.

Appendix 5: (Copy for reference purposes only – actual form can be downloaded from the Certified Member Assessment page of the MII web site at www.themii.ie/certified-assessment.jsp)

Role-play Self-Assessment Form

This form to be completed by the candidate being assessed following their role-play and review of the video of their assessed role-play without input from other(s).

Section I: Background Information

Name of Mediator (*Candidate*): _____

Phone: _____ E Mail: _____

Name of MII Assessor: _____

Section II: Role-play Information

Details (*date of role-play assessment/duration/type of scenario*):

Section III: Assessment of Mediator Skills

Scale To Measure - Level Of Participation

Please use the following rating scale and determine an overall rating for each category applicable to your role-play. Below the headings are listed several factors to consider in making a rating - please circle one. Because the process is unfolding you will only be able to demonstrate some of the qualities and skills set out below. It is the appropriate use of these skills for the stage of the process & the relationship that has been reached that is assessed.

5 – Very Good Standard: *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using all of the relevant interventions in each assessment area.*

4 – Good Standard: *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using most of the relevant interventions identified in each assessment area.*

3 – Satisfactory: *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using the relevant interventions identified in each assessment area.*

2 - Needs improvement: *The candidate has not displayed the skills and knowledge which indicate they have the ability to conduct a mediation as they have failed to demonstrate appropriate use of the relevant interventions.*

1 – Unacceptable: *The candidate has failed to display most or all of the skills and knowledge which indicate they have the ability to conduct a mediation. The candidate has used few if any of the appropriate interventions in each assessment area.*

Please circle one.

Under the “Comments” section, discuss specifically those areas you view as needing improvement and those you feel you completed successfully.

B. Managing the Process of Mediation

- Deals effectively with initial resistance to mediation
- Ensures participants have a clear understanding of the structure of mediation, process and roles
- Where applicable, assists the participants in negotiating the process, ground rules and agenda for mediation sessions
- Manages the introduction process in a respectful, balanced and clear fashion
- Works effectively with co-Mediator in controlling the stages of the process
- Attends and explores participants' concerns and empathises with feelings
- Enables the development of each participant's story
- Encourages participants to openly converse
- Manages the separation of issues into an agenda
- Assists participants in understanding the consequences of their plans
- Assists participants with option building, broadening the number or scope of options
- Empowers the participants to explore and find their own ways forward
- Manages the creative discussion of possible ways forward
- Ensures participants have a clear understanding of expectations in relation to preparation and delivery of the joint meeting
- Assists participants in exploring and reality-testing alternatives to mediation
- Manages impasse, resistance, or difficult behaviour
- Demonstrates appropriate use of joint meetings and Caucus
- Works with power imbalance or control issues
- Handles intense emotions
- Displays flexibility and uses creative strategies effectively
- Assists participants with reality testing next steps, particularly through the use of questioning and consultation with other agencies where appropriate
- Enables the participants develop clarity about their concerns
- Facilitates Agreement
- Writes Agreement
- Enables participants to complete a service evaluation
- Engages in '*evaluative feedback*' session with co-Mediator

Overall Rating (*please circle one*): 1 2 3 4 5

Comments: _____

C. Manages the Content of the Mediation

- Obtains, identifies, organises, analyses, prioritises and evaluates information
- Assess the issues and options and reason logically
- Reads, comprehends and uses relevant written materials
- Write clearly and concisely, using neutral language
- Organises records and materials
- Asks the participants to elicit information from other professionals (*such as appraisers, actuaries, accountants, mental health professionals, child protection professionals, lawyers*) with the objective of broadening rather than limiting the participants' options

Overall Rating (*please circle one*): 1 2 3 4 5

Comments:

D. Managing the Self

- Demonstrates mastery of mediation process
- Demonstrates an awareness of ethical issues
- Engages in ongoing assessment of appropriateness of case for mediation
- Demonstrates appropriate level of skill, competence, and effectiveness
- Demonstrates ability to work with co-Mediator and clients
- Demonstrates ability to self reflect.

Overall Rating (*please circle one*): 1 2 3 4 5

Comments:

Section IV: Overview

1. What worked well and why?

2. What might you have done differently and why?

Signature of role-play candidate: _____

Date: _____

This form to be completed and returned to the assessor or agency arranging the mediation assessment on the date of assessment.

Appendix 6: (Copy for reference purposes only – actual form can be downloaded from the MII web site at www.themii.ie/certified-member.jsp) Note this form is to be completed where the applicant is being assessed through the 15-hour traineeship option.

Certified Member Evaluation Form

This form to be completed by an MII Practitioner Member based on their **first-hand** knowledge of the skills of the candidate through supervision, case consultancy or co-mediation.

Section I: Background Information

Name of Supervisor: _____

Name of Mediator (Candidate): _____

Phone: _____ E Mail: _____

Section II: Mediation Information

Details of supervision/case consultancy/co-mediation (*dates; no. of hours; etc.*):

Scale To Measure - Level Of Participation

The following rating scales should be used to determine an overall rating under each area. Below each of the area headings are listed several factors to consider in making a rating. Assessors are asked to measure each area by circling the observed competencies on a scale of 1 through to 5 as follows:

5 – Very Good Standard: *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using all of the relevant interventions in each assessment area.*

4 – Good Standard: *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using most of the relevant interventions identified in each assessment area.*

3 – Satisfactory: *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using the relevant interventions identified in each assessment area.*

2 - Needs improvement: The candidate has not displayed the skills and knowledge which indicate they have the ability to conduct mediation as they have failed to demonstrate appropriate use of the relevant interventions.

1 – Unacceptable: *The candidate has failed to display most or all of the skills and knowledge which indicate they have the ability to conduct a mediation. The candidate has used few if any of the appropriate interventions in each assessment area.*

Please circle one.

Under the “Comments” section, **discuss specifically** those areas completed successfully or needing improvement.

Candidates must demonstrate a satisfactory rating in all areas to pass

Evaluation Form

Please type or print clearly – Use additional paper if needed.

A. Managing the Relationship in Mediation

- Establishes and maintains a respectful trusting and balanced relationship with the participants by:
 - Creating rapport
 - Respecting the participants
 - Encouraging mutual respect among all participants
 - Being objective and impartial in style
 - Modelling '*advanced communication skills*' with co-Mediator
- Demonstrates key Mediator skills and qualities (e.g., *listening, questioning, assertiveness, observation, tolerance, openness, honesty etc.*)
- Encourages the participants' self determination
- Facilitates a collaborative relationship between the participants
- Enables the participants hear each other's stories
- Enables the participants develop a relationship with the Mediator(s) and if feasible, with each other in the room, whereby they express feelings and become "*real*" to each other
- Encourages use of preferred names
- Recognises and acknowledges conciliatory gestures and concessions ('*gifts*')
- Facilitates expressions of regret and apology between the participants
- Enables the participants explore their future relationship, if relevant

Overall Rating (please circle one): 1 2 3 4 5

Comments:

B. Managing the Process of Mediation

- Deals effectively with initial resistance to mediation
- Ensures participants have a clear understanding of the structure of mediation, process and roles
- Where applicable, assists the participants in negotiating the process, ground rules and agenda for mediation sessions
- Manages the introduction process in a respectful, balanced and clear fashion
- Works effectively with co-Mediator in controlling the stages of the process
- Attends and explores participants' concerns and empathises with feelings
- Enables the development of each participant's story
- Encourages participants to openly converse
- Manages the separation of issues into an agenda
- Assists participants in understanding the consequences of their plans
- Assists participants with option building, broadening the number or scope of options
- Empowers the participants to explore and find their own ways forward
- Manages the creative discussion of possible ways forward

- Ensures participants have a clear understanding of expectations in relation to preparation and delivery of the joint meeting
- Assists participants in exploring and reality-testing alternatives to mediation
- Manages impasse, resistance, or difficult behaviour
- Demonstrates appropriate use of joint meetings and Caucus
- Works with power imbalance or control issues
- Handles intense emotions
- Displays flexibility and uses creative strategies effectively
- Assists participants with reality testing next steps, particularly through the use of questioning and consultation with other agencies where appropriate
- Enables the participants develop clarity about their concerns
- Facilitates Agreement
- Writes Agreement
- Enables participants to complete a service evaluation
- Engages in '*evaluative feedback*' session with co-Mediator

Overall Rating (*please circle one*): 1 2 3 4 5

Comments: _____

C. Manages the Content of the Mediation

- Obtains, identifies, organises, analyses, prioritises and evaluates information
- Assess the issues and options and reason logically
- Reads, comprehends and uses relevant written materials
- Write clearly and concisely, using neutral language
- Organises records and materials
- Asks the participants to elicit information from other professionals (*such as appraisers, actuaries, accountants, mental health professionals, child protection professionals, lawyers*) with the objective of broadening rather than limiting the participants' options

Overall Rating (*please circle one*): 1 2 3 4 5

Comments: _____

D. Managing the Self

- Demonstrates mastery of mediation process
- Demonstrates an awareness of ethical issues
- Engages in ongoing assessment of appropriateness of case for Mediation
- Demonstrates appropriate level of skill, competence, and Effectiveness
- Demonstrates ability to work with co-Mediator and clients
- Demonstrates ability to self reflect.

Overall Rating (*please circle one*): 1 2 3 4 5

Comments:

Section IV: Recommendations

3. Based on your first-hand knowledge of the mediation skills of this candidate, do you recommend this person for certification? *Please comment:*

4. Does this candidate need additional training, and/or additional experience mediating?

Signature of Supervisor:

Date:

Please provide the original assessment to the agency arranging the mediation assessment.

Thank you for contributing to The MII Mediator Certification Programme.

Appendix 7: (Copy for reference purposes only – actual form can be downloaded from the MII web site at www.themii.ie/AssessmentAppealsProcess.jsp)

MII Certified Assessment Appeals Process

Note: The following appeals process is available to participants who undertake an MII Certified Member Assessment. If you undertake an MII Approved Certified Member Assessment, you should refer to the training provider for details of their appeals procedures.

1. General Notes

Prior to partaking in assessment, each assessee will have full information on assessment criteria, marking schemes, names of assessors, and results process.

Results are issued to assessees from MII by post only.

2. Reviewing of Assessment

Within 21 days of issuing of results, an assessee may apply to MII for a review of their assessment. A request for review must be made in writing by the assessee. At this review, all assessor remarks will be available as will a discussion with the assessor.

There is no fee for reviewing assessment.

3. Appealing a Result

Within 10 days of reviewing the assessment, an assessee may appeal a result. No appeal may be made until or unless the assessee has applied to review their assessment.

The assessee may apply for a re-evaluation of their work. A re-evaluation means the reconsideration in detail of all or part of the existing assessment material where feasible by the internal and external examiners

An application for a review which is based on the sole grounds of disagreement with the assessment outcome will not be considered.

Re-evaluation

A request for re-evaluation must be made in writing by the assessee. This request must identify the element or elements of the assessment for which the re-evaluation is being sought. It must also specify the grounds on which the re-evaluation is sought and must contain all the information which the assessee requires to have taken into account in the re-evaluation.

The candidate may seek a re-evaluation under one of the following grounds:

- The Assessment procedures were not properly implemented
- Compassionate or medical circumstances that were made known to MII assessors (in writing) prior to or during assessment were not taken into consideration.
- Compassionate or medical circumstances that the assessee was unable for valid reasons to communicate to the MII assessors prior to or during assessment.
- Significant performance information was not taken into account by MII assessors.

The MII will charge a re-evaluation fee of €150. This fee must be included with the letter of application for a re-evaluation. In the event that the result is changed, the Re-evaluation Fee will be refunded to the assessee.

The assessment will be forwarded to the Appeals Board. The Appeals Board may make one of three decisions:

- Uphold the result

- Amend the result, or
- Refer the work for an external review.

If the Appeals Board decides to send the work for external review, it will be sent to an assessor who was not involved in the initial assessment. That external assessor will review the work in its entirety and return it to the Appeals Board with recommendations.

The Appeals Board on consideration of this may make one of two decisions:

- Uphold the Result
- Amend the Result.

This is the final stage of appeal.

Appeals Board

Council for MII will appoint two Practitioner Members from Council and one member of the Accreditation Policy Committee to the Appeals Board. One of these members will be appointed chairperson. The Appeals Board will consider the appeal on the grounds on which it is based. All assessment evidence related to the appeal will be made available to the Board. The Board may consult with internal and external assessors as appropriate.

The Appeals Board decision is final.

Appendix 9: Sample Trainee Registration Form (*Reference copy – actual form can be downloaded from the MII web site at www.themii.ie/application-form.jsp*)

The Mediators' Institute of Ireland								
The Professional Association for Mediators								
MII Trainee Member Registration Form - 2009								
<i>If you are attending, or have completed, an MII approved training programme you may register as a Trainee Member for the year of the <u>start date</u> of your training programme and the following calendar year. On progression to Associate Member status, the relevant registration fee will apply. Trainee Members are not approved to practise.</i>								
Personal Details								
Name (please print):		_____						
Organisation (if any):		_____						
Address:		_____ _____						
Mobile:	Office:	Home:						
Fax:	Website: _____							
Email:		_____						
Training Programme Details								
Title of MII Accredited Training Programme:		_____						
Duration of Programme (<i>start date / end date</i>):		_____						
MII Approved Assessment Date (<i>if applicable</i>):		_____						
Areas of interest								
Civil and Commercial		<input type="checkbox"/>	Community	<input type="checkbox"/>	Family	<input type="checkbox"/>	Organisational and Workplace	<input type="checkbox"/>
Restorative Justice		<input type="checkbox"/>	Other (<i>please specify</i>):			_____		
Signed:		_____		Date:		_____		
Note: It is the responsibility of each Member to liaise directly with the MII and to check that their membership status is properly stated.								
<i>To register, please submit a signed copy of this form along with a copy of your MII approved training certificate to the Registrar, The MII, Montana House, Whitechurch, Dublin 16. Alternatively, if you are currently attending an approved training programme a letter from the training provider confirming that you are attending the approved training programme may be forwarded for registration purposes (with certificate of successful completion to follow). Note: registration is on an annual calendar year basis, January to January.</i>								
The Mediators' Institute of Ireland • Montana House • Whitechurch • Dublin 16 T: 353 1 284 7121 • F: 353 1 493 0595 • E: info@themii.ie • W: www.themii.ie								