



Certified Level Assessment Guidelines

Guidelines on Assessing Certified Mediator Competencies

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 requires competent Mediators to demonstrate an agreed standard in:

- 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.

According to the Mediation Act 2017, mediation is defined as:

"...a confidential, facilitative and voluntary process in which parties to a dispute, with the assistance of a Mediator, attempt to reach a mutually acceptable agreement to resolve the dispute"

According to the Mediators' Institute of Ireland (MII) Code of Ethics and Practice, 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 and Practice

The MII have defined and outlined (below) a core set of competencies required of Mediators in a wide range of settings and contexts. While Mediators may come to the profession with different skill sets and/or training, the core requirements to effectively conduct mediation are the same.

These competencies do not propose different 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.

- Competence is assessed through direct observation by an MII Approved Assessor of a simulated role play whereby the Candidate mediates a dispute between 2 disputing parties for a total of 60 minutes. The disputing parties may be role played by the Candidate's class colleagues or other persons, where appropriate, and has been agreed in advance between the Candidate and the MII Approved Assessor / MII Approved Course Trainer.

- Candidates will be asked to mediate a dispute between two parties in the presence of the Assessor. This Assessment will be recorded on video and the Candidate will be given a copy so they can complete their Role Play Self-Assessment reflection.
- Candidates should only be assessed by MII Approved Assessors who have not been involved in the delivery of their training.
- While Candidates may make use of one-to-one meetings (caucus sessions) with parties where appropriate in the process, they should also demonstrate mediation skills working with both parties in the room together.
- The Candidates receive copies of the role plays in advance. These should not be role plays the Candidate has already performed (either as a disputant or Mediator) in the course of their MII Approved Training programme. Candidates should not mediate the same role play scenario in which they have already participated in as either a disputant or a Mediator.
- Candidates will be assessed as per the agreed Mediators' Institute of Ireland Requirements for Certified Level (outlined below and on the MII Certified Assessor Feedback form and Role Play Self-Assessment form)
- **Assessment Protocol:**
 - Each Assessment will take approximately 90 minutes. This time is broken down in the following manner: Camera begins to record
 - **5-10 minutes Preamble:**
The Assessor will ask the Candidate to outline how he/she has handled the referral to date, e.g. preliminary/preparatory separate meetings, agreed ground rules, reference to Agreement to Mediate etc.
 - **Plenary session:** Candidate will begin the session by briefly outlining the Mediation process and the role of the Mediator and will mediate the dispute for up to 60 minutes.
The Mediator may work with the parties in plenary session throughout or may caucus with each party for some of this period. In such instances, the other party leaves the room and the Mediator continues to work with the remaining party with the video camera running.
 - The main purpose of the assessment is to gauge whether the Mediator has the skills necessary to carry out a competent mediation and not whether they can complete a Mediation in 1 hour.
 - The final 15-20 minutes is for the Assessor to complete the required documentation. Candidates will not receive any feedback from the Assessor at this point.
 - As per the MII Certified Level Assessment Outcome Re-sit/Appeals Process, issues in relation to the venue or the process must be brought to the attention of the Assessor/Training Provider on the day of the assessment if they are to be taken into consideration in relation to any impact they may have had on the Candidate's performance.

- The Assessor or Trainer will make a digital copy of the video available to the Candidate as soon as possible. Candidates will then have 15 working days to view their video and complete their **Role Play Self-Assessment** form and return this to the Assessor. In exceptional circumstances, and with the prior agreement of the Assessor, this period may be extended.
- Candidates should also forward to the Assessor:
 - a) a copy of the 'Agreement to Mediate' pertaining to the role play they mediated
 - b) a draft of a possible 'Mediation Settlement/Agreement' (max one page) that contains key clauses and elements that would pertain to this case, had the parties reached an agreement
- The Assessor will forward to the Candidate, no later than 25 working days after the Assessor receives the Candidate's Role-play Self-Assessment, the result of the assessment which will include a written assessment and feedback of the Candidate. These results can be sent to either the Candidate directly or to the Trainer who will forward the result to the Candidate.
- The Assessor should seek to establish that:
 - Competence is demonstrated by performance in two contexts: knowledge/skills and use of process
 - The Mediator uses professional judgement to apply the process and skills in a flexible and appropriate manner, that maintains the integrity and transparency of the process
 - Mediators have demonstrated satisfactory knowledge of:
 - Relevant current legislation, where applicable
 - Ethical guidelines
- The Trainer should make the Assessor aware in advance of any reasonable accommodation requirements for any Candidates and these will be accommodated by the Assessor, as far as reasonably possible.
- Observations of performance should be used to assess the following core areas for assessment
 - Managing the Process
 - Managing the Relationship in Mediation
 - Managing the Content
 - Managing the Self
- It is anticipated that because of the timeframe and need to apply the process flexibly and at the parties' pace, Candidates are expected to demonstrate skills and competencies listed in each area that are relevant and appropriate to the context of the dispute being mediated.
- Candidates must demonstrate a Competent (3) rating in each of the 4 Assessment Competency areas to pass (see below 'Scale to Measure Competencies, Skills and Knowledge'). Where a Candidate has not achieved a '3 – Competent' or higher in each

of the 4 competency areas he/she should follow the MII Certified Level Assessment Outcome Re-sit/Appeals Process

Scale to Measure Competencies, Skills and Knowledge

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 – Exceptional: *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 in each assessment area to an **exceptional** standard. The Candidate has consistently upheld the 4 key principles of mediation in their role play.*

4 – Very Good: *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 in each assessment area to a **very good** standard. The Candidate has consistently upheld the 4 key principles of mediation in their role play.*

3 – Competent: *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 to a **competent** standard. The Candidate has consistently upheld the 4 key principles of mediation in their role play.*

2 – Working Towards: *The Candidate **has not achieved competence**. The Candidate has displayed some the skills, knowledge and relevant interventions required in each assessment area and is working towards achieving a competent standard. The Candidate has failed to consistently uphold the 4 key principles of mediation in their role play*

1 - Unsatisfactory: *The Candidate **has displayed few of the skills and knowledge** which indicate they have the ability to conduct a mediation and have failed to demonstrate sufficient appropriate use of the relevant interventions. The Candidate has failed to consistently uphold the 4 key principles of mediation in their role play*

Please note: Candidates must demonstrate a **Competent** (3) rating in all 4 areas to pass

Assessment Competencies

A. Managing the Process of Mediation

1. Upholds key principles of mediation throughout the process:
 - a. Confidentiality
 - b. Voluntary participation in the process
 - c. Self-determination
 - d. Impartiality of the Mediator
2. Deals effectively with any initial resistance to mediation
3. Ensures participants have a clear understanding of the structure of the mediation process and roles
4. Where appropriate, confirms parties have authority to make decisions around resolving the issues or identifies an appropriate process regarding authority to settle.
5. Ensures the Agreement to Mediate is signed (either in joint session or beforehand)
6. Manages the introduction process in a respectful, balanced and clear fashion
7. Where applicable, assists the participants in negotiating the process, ground rules and agenda for mediation sessions
8. Uses reflective listening skills to demonstrate the Mediator has accurately captured what parties are trying to communicate
9. Picks up on and pursues verbal and nonverbal cues to promote progress
10. Enables the development of each participant's story by asking relevant questions, particularly open questions, to encourage parties to talk
11. Attends and explores participants' concerns and empathises appropriately with feelings
12. Adopts a pace which is responsive to the need of the parties
13. Summarises and checks before moving on
14. Manages and signposts transitions between stages and keeps all parties informed
15. Helps parties to use the time productively when not with Mediator by encouraging parties to reflect
16. Demonstrates appropriate use of joint meetings and/or caucus and respects confidentiality throughout
17. Remains in charge of the process throughout and handles challenges to either the process or the Mediator, calmly and assertively.
18. Manages impasse, resistance, or difficult behaviour
19. Works with power imbalance or control issues and handles intense emotions appropriately
20. Displays flexibility and uses creative strategies effectively
21. Empowers the participants to explore and find their own ways forward
22. Generates an atmosphere of creative problem solving and facilitates the parties to create solutions and work towards agreement.
23. Assists participants with option building and broadening the number or scope of options
24. Works on options, implications and consequences, and avoids premature commitment to solutions
25. Encourages parties to make their own decisions

26. Assists participants in understanding the consequences of their plans
27. Assists participants in exploring and reality-testing alternatives to mediation, using BATNA, WATNA and reality testing in a timely and effective manner
28. Assists participants with reality testing next steps, particularly through the use of questioning and consultation with other agencies where appropriate
29. Where appropriate, draws together options into a coherent agreement
30. Facilitates parties to draft terms of the Mediation Agreement
31. In the event of parties failing to reach an agreement, closes the process appropriately
32. Demonstrates a capacity to capture the points of agreement in relation to the key issues discussed and record those concisely and clearly in a mediation settlement/agreement.
33. Ensures any notes, flip/chart notes or any technology used etc. treated in an appropriate and confidential manner

B. Managing the Relationship in Mediation

1. Establishes and maintains a respectful trusting and balanced relationship with the participants by:
 - a. Creating rapport
 - b. Respecting the participants
 - c. Encouraging mutual respect among all participants
 - d. Being objective and impartial in style
2. Sets the scene and sets the tone, appears relaxed, alert and confident with the process
3. Is attentive to parties' comfort and needs and arrange breaks during session, as needed
4. Encourages use of preferred names
5. Conveys energy, enthusiasm and personal warmth
6. Establishes the Mediator's authority and communicates in an assured, open manner, verbally and nonverbally
7. Uses a range of rapport-building strategies, such as adapting terms used, adopting a pace or volume of speech to suit the language level of the parties and acknowledging non-verbal behaviours
8. Ensures nonverbal listening cues (e.g. posture, eye contact) are supportive and balanced.
9. Demonstrates neutrality through equal treatment of the parties and use of nonjudgmental language
10. Manages interruptions effectively
11. Reminds parties about agreed ground rules, if other interventions are ineffective
12. Enables the participants hear each other's stories
13. 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
14. Paraphrases, asks clarifying questions and summarises to assist parties to feel heard
15. Raises questions as appropriate between parties about feelings and specific behaviours to encourage constructive expression of emotions and prevent escalation of conflict
16. Clarifies between parties, as appropriate, the effects of past events relating to dispute issues

17. Allows parties to vent emotions, whilst maintaining a safe environment, in order to enable progress
18. Demonstrates understanding of each party's situation and their feelings about it
19. Encourages parties to describe their understanding of others' statements about feelings, needs and ideas
20. Recognises and acknowledges conciliatory gestures and concessions (*'gifts'*)
21. Facilitates expressions of regret and apology between the participants
22. Encourages the participants' self determination
23. Encourages parties to focus on the future and where appropriate, to explore their future relationship.
24. Facilitates a collaborative relationship between the participants
25. Encourages participants to openly converse
26. Mutualises common ground between parties
27. Uses silence and other nonverbal communication strategies including pauses

C. Managing the Content of the Mediation

1. Manages the process without determining content
2. Draws out the background and context of the situation
3. Asks neutral, open-ended questions
4. Elicits not only facts, but also parties' perceptions of the situation and each other.
5. Identifies and probes positions, and explores underlying interests, issues and needs
6. Clarifies and checks understanding of each person's statements.
7. Enables the participants develop clarity about their concerns
8. Asks questions that encourage the parties to see the situation and the conflict, from a broader perspective including the other party's point of view
9. Explores beyond surface issues
10. Effectively summarises the essence of parties' stories and concerns
11. Demonstrates a good grasp of each parties needs and underlying interests (both tangible and emotional)
12. Helps to clarify and frame the issues constructively
13. Manages the separation of issues into an agenda.
14. Identifies and emphasizes shared issues and interests.
15. Manages information exchange tactically to good effect
16. Helps parties to analyse risks and benefits of particular outcomes
17. Encourages the parties to re-evaluate their own and each other's position
18. Where appropriate, asks the parties to elicit information from other professionals (*such as appraisers, actuaries, accountants, mental health professionals, child protection professionals or lawyers*) with the objective of informing the parties' options
19. Checks with parties that all issues have been fully explored
20. Writes clearly and concisely, using neutral language
21. Keeps notes, as necessary, unobtrusively
22. Explains to parties what will happen to any notes taken

D. Managing Self

1. Upholds and respects key principles of Mediation as per the Mediation Act 2017 (where relevant) and the Mediators' Institute of Ireland Code of Ethics and Practice.
2. Demonstrates an ability to self-manage within the process
3. Demonstrates in their Role Play Self-Assessment, an ability to self-reflect on their performance in the mediation
 - a. Demonstrates an ability to assess own strengths and weaknesses realistically
 - b. Gives one or two examples of how learning from the course has led to changes in their behaviour/approach while playing the role of the Mediator
 - c. Comments on specific feedback received during the course (from colleagues and/or trainers)
4. Identifies any relevant ethical issues that might have arisen in the case
5. Demonstrates ability to work appropriately and effectively with clients
6. Identifies any biases and practices from current and previous personal and professional experience that might have come up for the Candidate in the case, and how they addressed these issues.
7. Demonstrates knowledge and understanding of key elements, provisions, wording etc. that a potential Mediation Agreement would have contained, had an Agreement been reached during the session