

Civil and Commercial Mediation Accreditation Scheme

Guidance

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A. An introduction to the Accreditation Scheme

The Civil and Commercial Mediation Accreditation Scheme covers mediations arising from all types of civil and commercial disputes. While scheme members may have expertise in certain kinds of civil and commercial disputes, it is expected that they are able to demonstrate awareness and knowledge of general dispute resolution and mediation skills and issues. The scheme aims to

- ensure that the legal profession and the public can easily identify civil and commercial mediators approved by the Law Society
- satisfy users and potential users of mediation services that mediators on the scheme have been trained in accordance with Law Society training standards for civil and commercial mediation
- satisfy users and potential users of mediation services that practitioner members on the scheme have sufficient mediation experience to act as lead mediators
- acknowledge that scheme members are required to hold professional indemnity insurance when mediating (see the Solicitors Indemnity Insurance Rules 2007)
- confirm that scheme members are required to mediate in accordance with the competencies for civil and commercial mediators and to comply with the Law Society's code of practice for civil and commercial mediation
- confirm that each scheme member has an ethical obligation not to act for a party to a mediation in which they were a mediator in the same case, and to disclose any prior involvement with or interest in any party to a mediation in which they are asked to mediate

Overall, the scheme aims to provide a high-quality service for the delivery of civil and commercial mediation.

B. Who is eligible to apply for membership?

Solicitors and FILEX may apply

C. What types of membership are available?

There are two types of membership;

- General membership
- Practitioner membership

General membership

This is a once only award and is valid for two years from the date of the award.

General members will be expected to comply with the criteria for and become a practitioner member by the end of the second year of general membership.

If the general member has not achieved practitioner membership within two years they will be removed from the scheme.

Practitioner membership

This will be for an initial period of five years, after which a member will be required to demonstrate their continued suitability to remain on the scheme by successfully completing a process of re-accreditation.

There are two different routes to achieving practitioner membership:

- development route
- direct route

D. The level of experience you will be required to demonstrate

General membership

Applicants to the Civil & Commercial Accreditation Scheme are required to provide evidence of successful completion of a compulsory training course approved by the Law Society. The list can be found on our website.

If the compulsory training was completed with a non-listed organisation, the applicant should attach a copy of the course programme, syllabus and course papers to the application.

Practitioner membership - development route

Applicants must first have been a general member of the scheme.

Practitioner membership - development and direct routes

All applicants must have undertaken a minimum of 90 hours of mediation experience over the preceding two years consisting of;

- experience in at least four civil and commercial mediations comprising a minimum total of 30 hours.

The mediations can be actual or mock mediations. Your experience can be as lead mediator, co-mediator, pupil/assistant mediator, legal representative or client, provided that it is gained in at least two actual civil and commercial mediations, with at least 14 hours as lead mediator, co-mediator or pupil/assistant mediator.

General members are encouraged to act as pupil/assistant mediators before acting as lead mediators.

- You should provide reports of four mediations
- A minimum total of four hours spent on self-reflection activities which can be demonstrated in any of the following ways:
- Continuing professional development of a minimum total of 16 hours relating to civil and commercial mediation issues.

- You may make up any remaining mediation experience requirements through further time spent on any of the activities listed above and/or any of the following activities:
 1. attending mediation courses
 2. writing, lecturing or providing training courses on mediation
 3. private study of mediation (for example, reading relevant articles, journals or books: a mediation reading list can be found below)
 4. promoting mediation, for example by producing client mediation newsletters or seminars

Time spent on these activities should account for a total of no more than 12 hours.

E. How to apply and what you should include

All applications for Law Society Accreditation Schemes are in three sections.

Section 1 covers details of the practice you work for.

Section 2 covers your individual details.

Section 3 is scheme specific.

You will be required to fully complete each section, and forward your completed application, with the relevant fee, to the Law Society.

Referees

Applicants for membership of this Accreditation Scheme must provide details of two referees who can verify the information provided in the application.

The referees should be familiar with your work and be able to comment on your suitability for membership.

Please note that the Law Society reserves the right to take up references where an application is considered borderline or otherwise necessary without further contact from us.

Please also be aware that we further reserve the right to obtain references from other sources if this is deemed necessary by us.

Case reports

If you are applying for Practitioner membership you should provide reports of four mediations

- You should provide a summary of the dispute, the pre-mediation activities, the result, any difficulties experienced, and the learning points from the mediation.
- You need to be able to demonstrate experience in at least four civil and commercial mediations comprising a minimum total of 30 hours.

- The mediations can be actual or mock mediations. Your experience can be as lead mediator, co-mediator, pupil/assistant mediator, legal representative or client, provided that it is gained in at least two actual civil and commercial mediations, with at least 14 hours as lead mediator, co-mediator or pupil/assistant mediator.
- General members applying for the development route are encouraged to act as pupil/assistant mediators before acting as lead mediators.

Self reflection

If you are applying for Practitioner membership you should provide a 500-1000 word summary for any of the methods set out below.

- A personal debrief with another mediator (whether individually or in a group) following an actual mediation as a lead, co-mediator or pupil/assistant mediator only. You should provide a summary of the personal reflection points which came out of the debrief.
- Debriefing another mediator. You should provide a summary outlining the discussions.
- Attending a meeting or forum of mediators and making a summary of the discussions, with particular reference to any learning points.
- A summary of the personal reflection points which follow receipt of feedback after an actual mediation as a lead mediator or co-mediator only. Feedback can be received orally (and written up) or in writing. Feedback forms can be provided to the parties or, if a party is legally represented, to the party's legal representative after an actual mediation as a lead mediator or co-mediator only. Alternatively, if an actual mediation is administered by a mediation organisation and they follow up mediations with feedback forms, the applicant may refer to their forms. You may include with the summary a copy of written feedback received.

F. How you will be assessed

On receipt of your application form, we will send your application to be marked by one of our independent assessors.

Each subset of questions within Section 3 of the application form, and the case reports, will be marked **A B C D** or **F**.

- **A** is acceptable
- **B** is borderline
- **C** is incomplete or confusing when compared to other answers and written clarification is required before final assessment can take place.
- **D** is defer and relates to training only
- **F** is fail

To be admitted or re-admitted an Applicant requires an A in every section.

Should a candidate score a B in any section they may be asked to explain how they can further demonstrate their expertise. They will be clearly guided by the assessor as to what further information is required.

Should a candidate score a C in any section, they may be asked for further clarification and/or information. They will be clearly guided by the assessor as to what is incomplete or confusing and what is required.

G. What other checks and assessments are made?

You must demonstrate that you are a fit and proper person to become an accreditation scheme member, and must continue to be so throughout your membership. The Law Society reserves the right during the currency of any voluntary scheme membership to investigate any matter which may call into question the fitness and propriety of any scheme member to act as such, and to take whatever action is considered appropriate at whatever stage of the investigation.

The Law Society will examine whether your past record reveals that you have committed any offences involving fraud or other dishonesty or violence.

The Law Society will also be concerned with any practice in which you may have engaged in the course of any business or employment which do not conform with the best standards of professional conduct. Evidence showing delays in dealing with cases, failure to answer correspondence and failures or delays in responding to enquiries from regulatory and revenue authorities will raise doubts as to your competence to remain a scheme member.

The assessment of fitness is not a mechanical exercise whereby compliance with a number of specific requirements ensures the grant of an authorisation. It is rather a judgement based on the review of your whole record and individual circumstances.

If the Law Society, with due regard to the rules of procedural fairness, determines that you have ceased to be a fit and proper person to continue to be a member of the scheme, or that the fitness or propriety to act as such has been compromised, it may refuse, revoke or suspend the membership or attach conditions to it. Members affected by a decision taken under this paragraph have a right to request a review in accordance with the procedures set out elsewhere in this document.

Where a complaint or other matter which may affect your suitability to remain on the scheme is considered to be of sufficient seriousness, the Law Society may suspend your membership pending the completion of the investigation and any proceedings as may arise.

H. What fees are payable for making your application?

£100 + vat for an application for General Membership (total £120.00)

£450 + vat for an application for Practitioner Membership (total £540.00)

I. Information on re-accreditation

The Law Society is expecting to bring in a re-accreditation process in 2012.

J. Our requirements for continued professional development

Your CPD training record covering the previous three years must be included when you apply for membership. We expect to see at least 10 CPD hours in mediation per year.

K. What standards of competence are expected of a member of the scheme?

Please refer to the Law Society code of practice for family mediation, which is available on our website.