

Beyond Conflict Limited & NRM

Code of Professional Conduct

This code of conduct may be adopted by any mediator irrespective of nationality or professional background. Adherence to this code does not replace or qualify any legislation or rules regulating individual professional or any more extensive rules of conduct, which may apply in specific circumstances. The code is inspired by and based on:

1. IMI Code of Professional Conduct (2013)

The Beyond Conflict Code of conduct (“the Code”) provides users of mediation with a clear statement of ethical standards they can expect from mediators who choose to adopt it.

All Beyond Conflict mediators and are required to make known to users which code of conduct governs their professional mediation practice.

Definition of a Beyond Conflict Mediator:

Beyond Conflict Mediator is one:

- whose competencies in the practice of mediation have been assessed and certified directly by the Beyond Conflict or an authorized assessment provider to IMI standards, and
- who is authorized to use the Beyond Conflict name and logo, and
- whose profile is on the beyond conflict website

1. MEDIATOR APPOINTMENT

1.1 Entitlement to use the name "*Beyond Conflict*" and the company logo

In the event that a Beyond Conflict Mediator fails to maintain our requirements for certification, or no longer qualifies as a Certified Mediator, use of Beyond Conflict name and logo will end, and the Mediator's Profile will no longer be included on the Beyond Conflict website.

1.2 Promotion of Mediators' services

Subject to applicable laws and to regulations governing professional practice, Mediators will present and promote their practice in a truthful way. They may quote freely from, and link to, their Profile on the Beyond Conflict website and they are free to replicate that Profile, or extracts from it, for their own professional purposes.

1.3 Appointment

Before the mediation begins, Mediators will advise the parties (eg by way of directing them to the Mediator's Profile on the Beyond Conflict Website, or in the mediation agreement):

- about their relevant background and experience
- which code of conduct the Mediator will observe
- which process will apply in the unlikely event of a party believing the Mediator has not met the standards of the stated code of conduct
- that at the end of the process they will be invited to offer written feedback on the process and on the Mediator's role, and whether they hold a current professional indemnity liability insurance policy covering their professional practice as a Mediator.

2. DILIGENCE, INDEPENDENCE, NEUTRALITY, IMPARTIALITY

2.1 Diligence

Mediators may accept an assignment to act as Mediator in any situation where they feel competent to serve in that capacity.

2.2 Independence, Neutrality and Impartiality

2.2.1 Mediators will not accept an appointment without first disclosing anything within their knowledge that may, or may be seen to, materially affect their independence neutrality or impartiality. This duty to disclose is a continuing obligation throughout the mediation process.

2.2.2 The existence of circumstances potentially affecting, or appearing to affect, a Mediator's independence, neutrality or impartiality will not automatically imply unfitness to act as a mediator provided these circumstances have been fully disclosed and addressed to the satisfaction of the parties and the Mediator.

2.2.3 Mediators will always act in an independent, neutral and impartial way. They shall act in an unbiased manner, treating all parties with fairness, equality and respect. If at any time a Mediator feels unable to conduct the process in an independent, neutral and impartial manner, (s)he will express that concern and will offer to withdraw from the mediation. Such circumstances include:

- financial or personal interests in the outcome of the mediation
- existing past or future financial, business or professional relationship with any of the parties or their representatives about which the Mediator is aware.
- other potential source of bias or prejudice concerning a person or institution which may affect that Mediator's independence,

neutrality or impartiality or reasonably create an appearance of partiality or bias.

2.3 Conflicts of Interest

2.3.1 Mediators will conduct reasonable inquiries to determine if any interests, conflicts of interests or potential biases may exist. They will have a continuing duty to disclose any interests, conflicts of interests or potential biases that may become apparent during the mediation process.

2.3.2 Following any such disclosures, a Mediator will decline to participate as a mediator in a particular case if any of the parties raises an objection, unless a contract or applicable law or Court Order nevertheless requires the Mediator's participation. Even then, if a Mediator personally believes that the matters disclosed would inhibit their actual impartiality, the Mediator should withdraw as the mediator.

2.3.3 After accepting appointment, and until the mediation process ends, Mediators will not enter into financial, business, professional, family or social relationships or acquire financial or personal interests that are likely to affect or might reasonably create the appearance of conflict of interest, partiality or bias, without making a prior disclosure to all the parties and gaining their consent.

2.3.4 Within 12 months following the end of a mediation, Mediators will not represent in an advisory capacity any party to a mediation in the same or a substantially related matter, unless all parties to the mediation expressly consent to that representation after full disclosure. Acting as a neutral in other dispute resolution proceedings (eg as a mediator or arbitrator) that may involve some or all of the parties will not be considered a representation in an advisory capacity for the purposes of this clause.

2.3.5 At no time following the end of a mediation will Mediators produce evidence or testify on behalf of one of the parties in making or defending a claim against another party to the same mediation where they have acquired confidential information from the other party, unless all that information is no longer confidential or unless the party protected by the confidentiality gives consent.

3.1 Procedure

Mediators will satisfy themselves that the parties to the mediation and their advisers understand the characteristics of the mediation process, their roles as parties and advisers, and the role of a mediator. The Mediator will ensure that before the mediation begins, the parties have understood and agreed the terms and conditions which will govern the

mediation including those relating to obligations of confidentiality on the Mediator and on the parties. It is best practice for those terms to be contained in a written Mediation Agreement unless the parties or the circumstances dictate otherwise.

3.2 Fairness and Integrity of the process

3.2.1 Mediators will explain the mediation process to the parties and their advisers, and be satisfied that they consent to the process being used and to the Mediator selected (unless applicable law, court rules or contract require use of a particular process and/or mediator). Mediators will ensure that, if there are to be any pre-mediation private communications with the Mediator, all parties are aware they will have equal opportunity to raise issues.

3.2.2 Mediators will conduct the process with fairness to all parties and will take particular care to ensure that all parties have adequate opportunities to be heard, to be involved in the process and to have the opportunity to seek and obtain legal or other counsel before finalizing any resolution.

3.2.3 Mediators will take reasonable steps to prevent any misconduct that might invalidate an agreement reached at mediation or create or aggravate a hostile environment. Mediators will also be satisfied that the parties have reached agreement of their own volition and knowingly consent to any resolution.

3.3 Termination of the process

3.3.1 The Mediator will ensure the parties understand that they may withdraw from the mediation at any time by informing the Mediator and all other parties without being required to give any justification for doing so.

3.3.2 Mediators may withdraw from mediation if a negotiation among the parties assumes a character that to the Mediator appears unconscionable or illegal.

3.4 Fees

3.4.1 Mediators will, before accepting appointment, agree with the parties how their fees and expenses will be calculated, and how they will be paid by the parties (and if shared between the parties, in what proportions). Mediators who withdraw from a case will return to the parties any fees already paid relating to the period following withdrawal.

3.4.2 Mediators will not suggest to the parties that their remuneration should be based on or related to the outcome of the mediation.

4. CONFIDENTIALITY

4.1.1 Mediators will keep confidential all information acquired in the course of serving as a mediator in mediation unless:

- compelled to make a disclosure by law, by a Court of Law or by some governmental agency having appropriate authority and jurisdiction or
- required under paragraph 5.1, in which event the recipients of the confidential information shall themselves be bound to maintain the confidentiality, or
- the specific information comes into the public domain (otherwise than as a result of a disclosure by the Mediator), or
- the parties release the Mediator from the confidentiality restriction, or
- necessary to defend the Mediator from any proceedings or charges for which (s)he risks incurring any liability.

4.1.2 The Mediator may, however, disclose having previously served as a mediator in a mediation involving one or more of the parties, provided none of the details of that case are disclosed.

4.2 Mediators will discuss confidentiality with the parties before or at the beginning of the mediation and obtain their consent to any communication or practice by the Mediator that involves the disclosure of confidential information.

4.3 Mediators may use or disclose confidential information obtained during a mediation when, and to the extent that, they believe it to be necessary to prevent death or serious physical harm or damage from arising or believe an illegal act may realistically arise. Before using or disclosing such information, if not otherwise required to be disclosed by law, Mediators must, if they consider it appropriate, make a good faith effort to persuade the party and/or the party's counsel or other advisers, to act in such a way that would remedy the situation.

5. Professional Conduct Issues and Complaints

5.1 An Beyond Conflict Mediator may consult with the Beyond Conflict Director of Certification and Training about any professional or ethical dilemmas.

5.2 Where an Beyond Conflict Mediator is subject to the Code, a party to a mediation who believes there has been a lack of compliance with this Code may activate the Beyond Conflict Complaints Process.

