

## Code of Practice

### Summary

Our Code of Practice assures you that we operate to best practice standards with scrupulously fair, experienced, conscientious mediators who will observe complete confidentiality and will not press anyone into agreeing something against their will.

### 1. Introduction

All mediations conducted by Court Mediation Services Ltd (“CMS”) and all mediators working with CMS will comply with this Code and with the terms of the Agreement to Mediate signed by the parties.

### 2. Voluntary participation and self determination

The mediator shall observe the principle of voluntary participation and un-coerced self-determination by the parties.

### 3. Understanding of mediation

The mediator shall ensure that the parties understand:-

- the purpose and procedure of the mediation;
- the role of the parties and the mediator;
- the obligation of confidentiality.

### 4. Impartiality

The mediator shall be independent of any party to the dispute, shall have no interest in the outcome and shall act impartially and fairly, without discriminating on any grounds.

The mediator shall not act in any capacity for any of the parties in connection with the dispute which is the subject of the mediation. An individual shall not be appointed as mediator in a dispute if a firm or company with which the individual is connected has acted in any capacity for any of the parties in dispute in connection with that dispute.

### 5. Conflict of interest

In the event of the mediator becoming aware of a conflict of interest or possible conflict of interest of any kind or of any circumstances occurring which give rise to reasonable doubts about the mediator’s impartiality, the mediator shall immediately disclose this to all the parties to the dispute in person or in writing. The mediator shall only then continue to act if all the parties to the dispute acknowledge the disclosure and agree to the mediator continuing to act as mediator.

### 6. Confidentiality

The mediator shall keep confidential and not disclose to any third party for any purpose:

- the fact that a mediation may take place, is to take place or has taken place;
- the information (whether given orally or in writing) produced for or at the mediation;
- the Settlement Agreement (if any) arising out of the mediation;
- unless:
  1. all parties to the dispute consent to disclosure;
  2. the mediator is required by law to make disclosure;
  3. the mediator reasonably considers that there is serious risk of significant harm to the life or safety of any person if the mediator does not make such a disclosure; or
  4. the mediator requires ethical advice, or is receiving supervision, subject to confidentiality, from an experienced CMS supervisor;

4. the mediator reasonably considers that there is serious risk of a breach of the money laundering regulations (Proceeds of Crime Act 2002);
5. the mediator passes information to CMS Co-ordinator as to the stage the mediation has reached and whether or not the parties have agreed a settlement.

## **7. Advice**

The Mediator shall not decide or give an opinion or advice on the factual or legal issues in the dispute.

## **8. Withdrawal of mediator**

The mediator shall withdraw from the mediation if so requested by any of the parties to the dispute, or if the mediator considers that it is necessary to do so. In particular, the mediator may withdraw from the mediation at the mediator's own discretion if the mediator considers that any of the parties is acting or has acted in breach of the Agreement to Mediate or in an improper or criminal manner or continuing the mediation is unlikely to result in a settlement.

## **9. Fees**

CMS shall advise parties to the dispute, before the mediation begins, of any fees and expenses which may be charged for the mediation or, alternatively, the basis on which fees and expenses may be charged.

## **10. Complaints Procedure**

Should either party to the mediation have any complaint against either CMS or their appointed mediator, the following procedure shall apply:

- In the first instance the Managing Director of CMS will meet to discuss the complaint with the relevant party with a view to agreeing a solution in writing.
- If no agreement can be reached at this point, the complaint will be forwarded in writing to the Scottish Mediation Network, an independent charity, with a request to provide the names of three independent mediators. The complaining party will have the option to choose from the list, a mediators who will meet with the complaining party and CMS with a view to mediating a satisfactory solution.
- At all times the complaining party shall retain the right of recourse to normal legal process.

## **11. Disciplinary**

In the event that a complaint against a mediator appointed by CMS is upheld as a result of the complaints procedure, CMS shall offer to re-convene the mediation, at no further cost to the parties, with a mediator of the parties' choice after discussion with the Scottish Mediation Network. CMS shall also undertake that the mediator be suspended from its panel either temporarily pending further training or where appropriate, permanently.

## **12. Insurance**

The mediator shall hold professional indemnity insurance in an adequate amount with a responsible insurer.

## **13. Scottish Mediation Network**

CMS is a member of the Scottish Mediation Network and subscribes to the Guidelines on the Practice of Mediation issued by that organisation.

### **Court Mediation Services Ltd**

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