

# THE DRAFT CODE

A voluntary code for the non-determinative dispute  
resolution industry

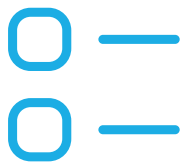
## Abstract

The Draft Code is a voluntary code that describes the industry benchmarks for providers of non-determinative dispute resolution training, accreditation and services in Australia.



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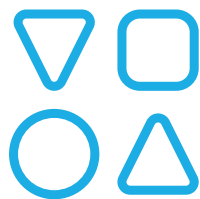
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# DEFINITIONS & ABBREVIATIONS

Term

## Abbreviation

Definition

Applicant

Any person, mediator or specialist practitioner:

- Seeking initial accreditation under the Code,
- Seeking to renew their accreditation in accordance with the Code,
- Seeking to vary their accreditation status in accordance with the Code
- Seeking to have their accreditation reinstated in accordance with the Code

Applicant Organisation

Any organisation:

- Seeking recognition under the code as an authorised provider of:
  - Training
  - Accreditation
  - Services, including:
    - Generalist provider of mediation services
    - Specialist provider of dispute resolution services
- Seeking to renew its recognised status
- Seeking to have its recognised status reinstated

Code Administration  
Committee

## CAC

The MSB to define, as the CAC's role will depend on the scope of application of the Code.

The body responsible for overseeing or implementing the Code. The MSB is the founding member of the Code Administration Committee.

Code Bodies

The bodies associated with the application, implementation or oversight of the National Register, provision of training and/or accreditation in compliance with the Code, or other organisations as set out under the Code.

Complainant

Any person or organisation making a complaint in accordance with the Code

[See also Complaint definition]



Complaint – ACCC Guidance

**MSB to develop**

[a definition of complaint that includes any expression of dissatisfaction with a product or service offered or provided] – see Part 2 COMPLAINTS HANDLING – ACCC GUIDANCE]

Mediator Standards Board

**MSB**

**The MSB to define depending on the scope of application of the Code.**

The body responsible for establishing the Code and the founding member of the Code Administration Committee. MSB members include RMABs; professional, government, community and consumer organisations; and education and training providers. All MSB members are signatories to the Code.

National Mediator Accreditation System

**NMAS**

The NMAS is a national accreditation scheme which provides a minimum level of standards of training and assessment for all mediators<sup>i</sup>.

Non-determinative Dispute Resolution

**NDR**

Non-determinative dispute resolution encompasses processes where parties attempt to reach an amicable resolution to a dispute with the assistance of a third person or persons ('the mediator or specialist practitioner') lacking the authority to impose a solution upon the parties to the dispute. This means it includes forms of Alternative Dispute Resolution (ADR) such as mediation, conciliation and family dispute resolution but excludes determinative forms of ADR such as arbitration. Where hybrid processes are practised, it includes the non-determinative aspect of the process, including any adaptations required to enable it to function effectively alongside the determinative aspect of the hybrid process.

This definition is consistent with 'Non-adjudicatory'<sup>ii</sup> Dispute Resolution as described under [the Singapore Convention\\*](#)

\*Note: The Singapore Convention has adopted the following position in relation to the use of the term 'mediation' to capture Non-adjudicatory Dispute Resolution processes:

*9. In practice, proceedings in which the parties are assisted by a third person to settle a dispute are referred to by expressions such as mediation, conciliation, neutral evaluation, mini-trial or similar terms. The Model Law uses the term "mediation" to encompass all such procedures. Practitioners draw distinctions between these expressions in terms of the methods used by the third person (also referred to as third-party neutral) or the degree to which the third person is involved in the process. However, from the viewpoint of the legislator, no differentiation needs to be made between the various procedural methods used by the third person. All these processes share the common characteristic that the role of the third person is limited to assisting the parties to settle the dispute and does not include the power to impose a binding decision on the parties.<sup>iii</sup>*

*Singapore Convention – Guide to the Enactment*

## Non-determinative Dispute Resolution Practitioner

## Mediator or Specialist Practitioner

A third person (or people) who facilitates non-determinative dispute resolution processes so as to assist people in resolving disputes on mutually agreed terms. This includes, but is not limited to, third parties who describe themselves as:

- Mediators
- Conciliators
- Family Dispute Resolution Practitioners

## Party-centric Dispute Resolution<sup>iv</sup>

### PDR

Party-centric Dispute Resolution prioritises the identification of parties' wants, needs and expectations and then matches them to the dispute resolution process most likely to achieve the parties' desired outcomes.

## Professional Practice Attributes

The Professional Attributes articulate the values of the NDR profession, including the knowledge, skills and behaviours that individuals, the community and society can reasonably expect from those carrying accreditation under the Code. The Professional Attributes permeate the practice of all accredited practitioners irrespective of their level of experience, area of specialisation or context within in which they operate.

## Professional Practice Domains

The Professional Practice Domains specify the four distinct areas of practice which constitute the Professional Practice Standards. The four (4) Professional Practice Domains are:

1. Professional Knowledge
2. Professional Skills
3. Professional Ethics and Responsibilities
4. Professional Development

Each Domain describes the specific Professional Practice Attributes of those carrying accreditation under the Code.

## Professional Practice Standards

The Professional Practice Standards describe the quality of practice expected of accredited practitioners across the four Professional Practice Domains: Professional Knowledge, Professional Skills, Professional Ethics and Responsibilities and Professional Development. Specifically, they articulate the extent to which such expectations might vary depending on the practitioner's level of experience, area of specialisation or context within which they operate. In doing so, they acknowledge that practice does not remain static and evolves over time and in response to the environment in which it is embedded.

## Recognised Accreditation Provider

### RAP

A signatory organisation recognised under the Code as authorised to provide mediator or specialist practitioner accreditation in accordance with the requirements of the Code. This includes, but is not limited to, RMABs and other organisations responsible for accrediting mediators or other specified types of NDR practitioners under co-existing accreditation

frameworks, e.g., the Attorney General’s Office as the accreditation provider for FDRPs.

#### Recognised Mediator Accreditation Body

#### R M A B

The MSB member organisation responsible for accrediting mediators and other specified types of NDR practitioners under the Training and Accreditation Framework (TAF) and in accordance with the Code.

See also Recognised Accreditation Provider

#### Recognised Service Provider

A signatory organisation recognised under the Code as a provider of mediation or other types of NDR services in accordance with the requirements of the Code. This includes, but is not limited to, public and private services offering mediation, conciliation and family dispute resolution (FDR).

#### General Provider of Mediation Services (GPMS)

General Providers of Mediation Service (GPMS) are authorised to display the GPMS quality mark or ‘tick’ signifying their commitment to ensuring at least 85% of their mediators are accredited mediators, or in the process of becoming accredited mediators. The GPMS ‘quality tick’ also signifies that they only offer processes consistent with traditional facilitative mediation. This means they do not provide information, guidance or advice, except where it relates to the facilitative mediation process.

#### Specialist Provider of Dispute Resolution Services (SPDRS)

Specialist Providers of Dispute Resolution Services (SPDRS) are authorised to display the SPDRS quality mark or ‘tick’ signifying their commitment to ensuring:

- At least 85% of their specialist practitioners are accredited or in the process of becoming accredited or,
- If the process is co-facilitated, at least 85% of the time, one of the practitioners will be accredited or in the process of becoming accredited.

The SPDRS ‘quality tick’ also signifies their commitment to providing explicit and user-friendly information about the types of NDR the service offers and, if appropriate, how it is distinguishable from traditional facilitative mediation.

#### Individual Providers of Dispute Resolution Services

An Individual Provider of Dispute Resolution Services is a mediator or specialist practitioner accredited under the Code and who operates as a sole practitioner. Their accreditation signifies their commitment to the

	Code of Ethics, including the requirement to be honest and transparent in relation to their approach or the type of NDR process or processes they use.
Recognised Training Provider	<p><b>RTP</b></p> <p>A signatory organisation recognised under the Code as authorised to provide training in accordance with the requirements of the Code. This includes, but is not limited to, initial mediator training and specialist training as set out in the Code’s Training and Accreditation Framework (TAF).</p>
Register of Nationally Accredited Mediators and Specialist Dispute Resolution Practitioners	<p><b>National Register</b></p> <p>The authoritative list of practitioners who meet the requirements for inclusion as set out under the Code's Training and Accreditation Framework</p>
The Code	The Code is a voluntary code that describes the industry benchmarks for providers of NDR training, accreditation and services in Australia.
Trainee	Any person, mediator or specialist practitioner undertaking training as set out under the Code.
Training and Accreditation Framework	<p><b>TAF</b></p> <p>The Training and Accreditation Framework (TAF) reorganises the NMAS’ Approval and Practice Standards. It also aligns mediator training with the Australian Qualifications Framework, identifies common attributes for trainees, mediators and specialist practitioners, and articulates requirements for recognising the differences between them according to their level of experience, area of expertise or context within which they operate.</p> <p>The framework incorporates the changes and modifications identified via consultation and new ideas arising from the analysis of the reported practices from over 700 mediators or specialist practitioners. The new structure is designed to strike a balance between recognising practitioner autonomy, specialisation and the evolution of practice and the need for the industry (or profession) to offer the assurance of quality, consistency and public protection.</p>

## COMMENTARY

- **NMAS structure and nomenclature was raised as an issue and requests made for:**
  - **the clarification of terms,**
  - **a glossary of terms**
  - **plain English**
- **This section, along with the following – APPROACHES TO PRACTICE has been designed in response**

- It is essential that the MSB makes clear to the community whether they see the term ‘mediator’ as capturing a range of NDR practitioners or that they see a distinction between mediators and other types of specialist practitioners. In coming to a decision, it is essential to consider the need for internal consistency with references to the processes the Code is intended to capture.
- The position taken by the review team within this document has been to distinguish mediators and specialist practitioners. This is consistent with the current view of those consulted and the DR community more broadly. However, it is inconsistent with the analysis of responses which showed significantly more similarities than differences across practices, and that, as practitioners become more advanced, they are increasingly able to curate their practice to ensure they offer a highly party-centric<sup>v</sup> approach.



# APPROACHES TO PRACTICE

*Irrespective of the practitioner type, mediators, and specialists alike, may draw on a range of approaches as part of their practice. The following section provides definitions to some of the most common forms of mediation and other non-determinative dispute (NDR) processes.*

## Conciliation<sup>vi</sup>

The focus is on assisting parties resolve disputes in accord with the norms or principles embedded in the legislative or regulatory framework within which the dispute or complaint is being considered. This means that the practitioner or the parties might be subject to certain obligations specific to the context or framework. Typically, the practitioner is expected to draw on their specialist expertise to inform, guide or advise parties on the boundaries of the associated legislative or regulatory framework, including any limits to remedies or alternatives to reaching a negotiated agreement. Within this context, the practitioner has discretion to offer an opinion or evaluation of the parties' position.

## Elder (or other types of vulnerable people) Mediation<sup>vii</sup>

The focus is on assisting elders (or other types of vulnerable people) have difficult conversations with their families or significant others. These conversations tend to involve making plans for the future or reaching outcomes to disagreements. Typically, the process places a strong emphasis on ensuring outcomes respect the rights and enhance the safety of the elder or vulnerable person.

## Expert Advisory Mediation<sup>viii</sup>

The focus is on assisting parties find efficient settlements of disputes which are often legally or technically focused. A practitioner may use their expertise to provide guidance or advice on technical/legal information, benchmarks, merits of the case or typical outcomes in the event a third party were asked to make a finding or determination.

## Facilitative Mediation<sup>ix</sup>

The focus is on assisting parties to find solutions that meet their underlying needs and interests. A practitioner may use their skills to help parties problem-solve and consider the issue from the other party's perspective. allow parties maximum autonomy to determine creative outcomes. It is not uncommon for these disputes to involve multiple issues, some (or all) of which may be non-legal.

## Family Dispute Resolution, including Family Group Conferencing<sup>x</sup>

The focus is on assisting separating families come to their own agreements about future parenting arrangements. The practitioner may use their expertise in Family Law and responding to domestic violence to create a supportive environment where people feel safe to discuss and clarify issues. An important part of the practitioner's work is encouraging parties

to focus on the best interests/needs of their children. Where appropriate, extended family members may be included in the process.

#### First Nations Mediation

*Placeholder – inclusion subject to consent for inclusion and as defined by First Nation mediators and First Nations led dispute resolution services.*

#### Hybrid Practice

The focus is on working with parties who would like to make use of both non-determinative and determinative processes to resolve their dispute. Sometimes this will require the practitioner to assist parties to negotiate specific issues which are suited to or earmarked for resolution by consensus, while another practitioner works with parties in relation to the issues requiring a determination by an independent third party. At other times the practitioner may, with the ongoing consent of the parties, switch hats and take on both the non-determinative and the determinative roles. A common example of this process is med-arb.

#### Narrative Mediation<sup>xi</sup>

The focus is on assisting parties to deconstruct their conflicting narratives with the view to creating a new, more positive combined story. This typically involves situations where there are significant emotional and/or behavioural issues at stake. With the focus on the stories that construct each party's worldview, sometimes there is less emphasis on settlement.

#### Restorative Practice<sup>xii</sup>

The focus on assisting parties to set relations right and the practitioner's guiding principle is do no further harm. This typically means working with the people involved to address social harm and promote wellbeing. The context of this work varies and may include incidents involving undisputed harm. Alternatively, the practitioner's skills may be called upon in environments with a legacy of poorly resolved incidents, a legacy of betrayal trauma, or within communities of common concern.

#### Settlement Mediation<sup>xiii</sup>

The focus is on assisting parties to find efficient settlements based on compromise and bargaining. This typically involves situations where the outcome is more important than the relationship or where parties don't want a future relationship. It is not uncommon for these disputes to be over a single issue. A practitioner uses their expertise to optimise the environment and coach parties through the negotiation process.

#### Tradition Based Mediation<sup>xiv</sup>

The focus is on assisting communities, industries, or groups to restore stability and harmony. This typically involves prioritising the values of the community over those of an individual. The practitioner may use their skills to facilitate open dialogue involving a range of community members. It is not uncommon for there to be an emphasis on restoration of relationships, reconciliation or for processes to be rich in ritual.

#### Transformative Mediation<sup>xv</sup>

The focus is on assisting parties transform how they relate to each other. This typically involves less emphasis on the settlement and a greater emphasis on empowerment and parties' evolving understanding of the conflict and the relationship. The practitioner may use their expertise in conflict, psychology, or behavioural science to create an environment

where parties can engage in dialogue where feelings, needs, interests are articulated and acknowledged.

#### Wise Counsel Mediation<sup>xvi</sup>

The focus is on assisting parties to find long-term interest-based solutions based on wise counsel or moral guidance. This typically involves situations where parties seek input from a respected third party within the context of a fair forum. The practitioner may use their expertise to provide guidance and advice about all aspects of the dispute. While the final decision remains with the parties, the practitioner will often have significant input into generating options and the shape of the final agreement.

#### COMMENTARY

- **descriptive examples of key concepts**





# INTRODUCTION TO THE CODE

## PURPOSE

- 1 The Code is a voluntary code that describes the industry benchmarks for providers of non-determinative dispute resolution (NDR) training, accreditation, and services in Australia.
- 2 The Code restructures the existing National Mediation Accreditation System (NMAS) as a voluntary industry code modelled on the Australian Competition and Consumer Commission (ACCC) [\*Guidelines for developing effective voluntary industry codes of conduct\*](#)<sup>xvii</sup>. It includes modifications and changes to the NMAS based on consultation with the dispute resolution community. It also provides options for an expanded application to accommodate a variety of NDR practitioners, including family dispute resolution practitioners, conciliators and the potential for First Nations mediators.
- 3 In doing so, it defines:
  - (1) The professional standards for mediators and specialist dispute resolution practitioners listed on the Register of Nationally Accredited Mediators and Specialist Dispute Resolution Practitioners (National Register)
  - (2) The responsibilities and relationships between the bodies that play a role in overseeing and implementing the Code
  - (3) The relationship between the Code and any co-existing accreditation schemes

## BENEFITS

- 4 The benefits of the Code include:
  - (1) Ensuring transparency, quality, consistency and accountability across the elements formerly captured under the NMAS
  - (2) Advancing the professional status of accredited mediators and specialist dispute resolution practitioners
  - (3) Promoting public protection and stakeholder confidence, including mechanisms for engagement and feedback
  - (4) Providing a foundation upon which the industry can systematically reflect, plan and take strategic action for the ongoing development and advancement of the field domestically and internationally

## OBJECTIVES

- 5 The objectives of the Code are to:
  - (1) Define the purpose, scope and obligations associated with the National Register,
  - (2) Define the standards expected of mediators and specialist dispute resolution practitioners accredited under the Code
  - (3) Define the training and accreditation requirements for mediators and specialist practitioners accredited under the Code
  - (4) Define the obligations of organisations authorised to provide training and accreditation under the Code
  - (5) Define the mechanism for administering the Code, including:
    - (a) The Code Administration Committee (CAC)

- (b) Coverage
- (c) Complaints handling
- (d) Compliance
- (e) Consumer awareness
- (f) Industry awareness
- (g) Data collection
- (h) Monitoring
- (i) Accountability
- (j) Review
- (k) Competition implications
- (l) Performance indicators
- (6) Embed a contextualised and intersectional approach to diversity and inclusion<sup>xviii</sup> throughout each of the objectives described above – see also DIVERSITY & INCLUSION
- (7) **MSB to add**

## COVERAGE

- 6 The Code applies to:
  - (1) Recognised providers of NDR training, accreditation and services, including practitioners accredited under the Code's Training and Accreditation Framework (TAF)
  - (2) Those responsible for overseeing or implementing the Code, including, but not limited to:
    - (a) The Mediator Standards Board (MSB) and its members
    - (b) Signatory members of the Code Administration Committee

## COMMENTARY

- **Consideration will need to be given to the nomenclature depending on:**
  - **The need or desire to retain NMAS in the name**
  - **The extent to which the scope is expanded beyond the original NMAS**
  - **The decision made in relation to the terminology to be used to capture the scope of the processes – see commentary relating to the Singapore Convention under the definitions.**
- **Some possible options may include:**
  - **NMAS Code**
  - **Non-determinative Dispute Resolution (NDR) Code or (NDRC) (\*preferred – inclusive of other processes)**
  - **Non-determinative Dispute Resolution Industry (NDRI) Code or (NDRIC)**
  - **Modern Mediator Code (MMC)**
  - **Professional Non-determinative Dispute Resolution (PNDR) Code or (PNDRC)**
  - **Professional Association Non-determinative Dispute Resolution (PANDR) Code or (PANDRC)**

# PART 1 THE CODE – REQUIREMENTS

## ACCC GUIDANCE

(adapted from '[Guidelines for developing effective voluntary industry codes of conduct](#))

[Code requirements provide signatories with industry benchmarks that have been set by industry and may establish best practice. Code requirements also inform interested parties of their rights and obligations under the Code, the quality and service they can expect and how to lodge a complaint when they are dissatisfied with the product or service they received.]

## COMMENTARY

**This part of the draft Code contains draft requirements, guidance and commentary arising out of extensive consultation with the community and psychometric analysis. Where requirements are complete, it is recommended that they are adopted in full.**



THE NATIONAL  
REGISTER

# THE CODE – REQUIREMENT 1

## Why have a National Register?

- 7 The National Register is the authoritative list of practitioners who meet the requirements for inclusion as set out under the Code's Training and Accreditation Framework (TAF). It enables consumers, advisers and referring agents to:
  - (1) check whether mediators or specialist practitioners are accredited, and
  - (2) obtain details of the Recognised Accreditation Provider (RAP) that has accredited them.

## What does inclusion on the National Register signify?

- 8 Inclusion on the National Register signifies that the mediator or specialist practitioner accredited under the Code possesses specific professional attributes. These professional attributes fall within the four (4) areas of practice or domains set out below:
  - (1) DOMAIN 1 – Professional Knowledge
    - (a) Accredited mediators and specialist practitioners draw on a body of knowledge and research to inform their practice.
    - (b) There are seven (7) attributes that fall within the Professional Knowledge Domain
      - (i) See DOMAIN 1 – PROFESSIONAL KNOWLEDGE to view the attributes in full
  - (2) DOMAIN 2 – Professional Skills
    - (a) Accredited mediators and specialist practitioners facilitate non-determinative dispute resolution (NDR) processes designed to promote resolution within a range of contexts. This is where mediators and specialist practitioners put their professional knowledge to work.
    - (b) There are seven (7) attributes that fall within the Professional Skills Domain
      - (i) See DOMAIN 2 – PROFESSIONAL SKILLS to view these attributes in full
  - (3) DOMAIN 3 – Professional Ethics and Responsibilities
    - (a) Accredited mediators and specialist practitioners engage ethically and professionally with clients and colleagues. In doing so, they foster public and institutional confidence in the field.
    - (b) There are seven (7) attributes that fall within the Professional Ethics and Responsibilities Domain

- (i) See DOMAIN 3 – PROFESSIONAL ETHICS & RESPONSIBILITIES to view these attributes in full
- (c) The Code of Ethics sets out these attributes as a public-facing document and forms part of the COMPLAINTS HANDLING requirements set out in this Code.
  - (i) See APPENDIX 3 - CODE OF ETHICS to view the Code of Ethics
- (4) DOMAIN 4 – Professional Development
  - (a) Accredited mediators and specialist practitioners are reflective practitioners who value the opportunity to develop their expertise, support the development of others and contribute to the field.
  - (b) There are three (3) attributes that fall within the Professional Development Domain.
    - (i) see PROFESSIONAL ATTRIBUTES to view these attributes in full

## What is the expected standard of practice for those listed on the National Register?

- 9 The National Register recognises that the expression of these Professional Attributes will change in response to experience and the context in which the practitioner operates. As such, practitioners included on the National Register may carry different levels of accreditation based on the extent or area of their expertise.
- 10 The Professional Practice Standards describe the standards typically expected at each stage within the TAF, including the four (4) levels of accreditation:
  - (1) Level 1
    - (a) Graduate – see Graduate Profile
  - (2) Level 2
    - (a) Associate Practitioner – see Associate Practitioner Profile
    - (b) Provisionally Accredited Mediator or Specialist Practitioner – see Provisionally Accredited Mediator & Specialist Practitioner Profile
  - (3) Level 3
    - (a) Accredited Mediator – see Accredited Mediator Profile
  - (4) Level 4
    - (a) Specialist Practitioner – see Specialist Practitioner Profile
    - (b) Advanced Mediator – see Advanced Mediator Profile
    - (c) Master Mediator / Master Practitioner – see Master Mediator & Practitioner Profile

For more information on the Standards expected at each level, see Appendix 5 – The PROFESSIONAL PRACTICE STANDARDS

## Functions of the Mediator Standards Board (MSB)

- 11 The MSB is responsible for the ongoing development, maintenance and review of the National Register. The MSB must:
- (1) Provide login identification and passwords to RAPs (including RMABs) and specifications regarding the uploading of particulars of accredited mediators and specialist practitioners to the National Register;
  - (2) Carry out other functions and activities that are necessary or incidental to the above.

## Functions of Recognised Accreditation Providers (RAPs)

- 12 RAPs are responsible for data entry and record-keeping within the National Register.
- 13 RAPs must:
- (1) Upload to the National Register the particulars of all mediators and specialist practitioners accredited by them
    - (a) The particulars must comply with the specifications issued from time to time by the Code Administration Committee
  - (2) Update the National Register and maintain the accuracy and currency of the particulars. As part of this RAPs must:
    - (a) Remove from the National Register:
      - (i) The names of mediators or specialist practitioners who have not had their accreditation renewed within two months of their accreditation expiry
      - (ii) The names of mediators or specialist practitioners who have been granted leave of absence
      - (iii) The names of mediators or practitioners whose accreditation has been suspended or cancelled
    - (b) Notify the Code Administration Committee (or delegate) without delay of the details of each mediator or specialist practitioner who has been removed from the National Register
    - (c) Keep confidential the National Register login identity and password issued by the MSB to their authorised representatives
    - (d) Pay to the Code Administration Committee, the National Register registration fee for each mediator or specialist practitioner it accredits
- 14 RAPs must not:
- (1) Upload to the National Register the names of mediators or specialist practitioners accredited under the Code by another RAP
    - (a) Nothing in this clause prevents an RAP from including a mediator or specialist practitioner accredited by another RAP on their internal list or panel of nationally accredited mediators and specialist practitioners

- (2) Collect the National Register registration fee from a mediator or specialist practitioner who has been accredited under the Code by another RAP

## Reminders from the National Register

- 15 Accredited mediators and specialist practitioners will receive automated reminders from the National Register when their accreditation is due for renewal

## COMPLAINTS ABOUT THE NATIONAL REGISTER

## Commentary – ACCC Guidance

- **Include a description of how to make complaints about a training based on the complaints mechanism adopted – see Part 2 COMPLAINTS HANDLING – ACCC GUIDANCE**
- **Consultation revealed concerns about the currency of the National Register in relation to mediator suspensions and cancellations. In particular, the process of communicating this information via the MSB prompted concerns of delay and the potential for mediators to RAP (RMAB) shop and/or continue to represent themselves as accredited.**
  - **Pt 13(2)(a)(iii) incorporates the responsibility for adjusting the Register to remove suspended or cancelled mediators or specialist practitioners as part of the RAPs (RMABs) responsibility to ensure currency**

## COMMENTARY



# THE CODE – REQUIREMENT 2

## TRAINING REQUIREMENTS

### Overview

*To become accredited under the Code, mediators and specialist practitioners must demonstrate the advanced knowledge and skills necessary for professional or highly skilled work<sup>xix</sup>.*

The Code's Training and Accreditation Framework (TAF) recognises this and strives to assure quality, consistency and transparency by aligning itself with the [Australian Qualifications Framework<sup>xx</sup>](#).

In doing so, it draws on an established set of principles, policies and explanatory material in relation to:

- The relative complexity and/or depth of achievement required for professional or highly skilled work and the autonomy required to demonstrate that achievement;
- Recognition of prior learning;
- Alternative pathways; and
- Credit transfer

## TRAINING PROVIDERS

### Who is authorised to conduct initial mediator training?

16 Only Recognised Training Providers (RTPs) are authorised to conduct initial mediator training as set out under the Code's TAF.

For more information on the requirements for becoming a Recognised Training Provider, see Code Bodies – What is a Recognised Training Provider (RTP)?

## COURSE REQUIREMENTS

### Course structure

- 17 This Code's Training and Accreditation Framework (TAF) recognises the value of mediator training across a range of contexts, including:
- (1) Educating the general community on:
    - (a) Effective conflict resolution,
    - (b) Mediation, and
    - (c) The role of mediators in assisting people in navigating conflict and finding solutions that meet their underlying needs and interests.
  - (2) Ensuring future professional mediators have the advanced knowledge and skills required of mediators accredited under the Code.



- 18 To accommodate these differences, initial mediator training is organised into two parts, Part A (Mediator Theory and Practice)\* and Part B (Mediator Practicum)\*.
- 19 Part A (Mediator Theory and Practice):
  - (1) Is suitable for those:
    - (a) Interested in conflict resolution, mediation and the role of mediators, and/or
    - (b) Seeking accreditation under the Code's Training and Accreditation Framework
  - (2) Covers the Professional Knowledge expected of an accredited mediator as set out in the Graduate Standard – see Knowledge within the Professional Practice Standards
  - (3) Provides opportunities for trainees to begin to develop the Professional Skills expected of an accredited mediator as set out in the Graduate Standard – see Skills within the Professional Practice Standards
  - (4) Provides an exit point for people seeking:
    - (a) Graduate status – see Accreditation – Level 1 for more information on accreditation requirements, or
    - (b) Associate Practitioner status – see Accreditation – Level 2 for more information on accreditation requirements
  - (5) Is a pre-requisite for people seeking:
    - (a) To enrol in Part B – (Mediator Practicum)
    - (b) Provisionally Accredited Mediator status – see Accreditation – Level 2 for more information on accreditation requirements
- 20 Part B (Mediator Practicum)
  - (1) Is suitable for those interested in:
    - (a) Obtaining Accredited Mediator status under the Code's Training and Accreditation Framework, or
  - (2) Obtaining Specialist Practitioner status under the Code's Training and Accreditation Framework
  - (3) Provides opportunities for:
    - (a) Provisionally Accredited Mediators to develop and consolidate their Professional Skills to the level expected of an Accredited Mediator as set out in the Accredited Mediator Standard – see Provisionally Accredited Mediator & Specialist Practitioner Profile
    - (b) Specialist Practitioners to obtain recognition for the practical experience gained via their specialist dispute resolution context
  - (4) Provides an exit point for people seeking:
    - (a) Accredited Mediator status – see Accreditation – Level 3 for more information on accreditation requirements, or
    - (b) Specialist Practitioner status – see Accreditation – Level 4 for more information on accreditation requirements

For more information, see sections below on recognition of prior learning and alternative pathways, and credit towards other courses **RECOGNITION OF PRIOR LEARNING AND ALTERNATIVE PATHWAYS** and **CREDIT TOWARDS OTHER COURSES OR ACCREDITATIONS**

\* Note: This is a generic name and, as such, it is not mandatory for RTPs to adopt this nomenclature.

## Course duration

- 21 Part A (Mediator Theory and Practice):
  - (1) Must be equivalent in duration to 25 credit points or two subjects offered at an AQF Level 8 by an approved higher education provider (approx. 72 hours teaching hours)
  - (2) May be conducted as a single course or in modules over a period of up to 24 months;
- 22 Part B (Mediator Practicum):
  - (1) Must be equivalent in duration to 25 credit points or two subjects offered at an AQF Level 8 by an approved higher education provider (approx. 72 hours teaching hours)
  - (2) May be conducted as a single course or in modules over a period of up to 24 months;

Note: The duration of the Provisional Accreditation period remains 2 years even where Part B (Mediator Practicum) is completed in less than 24 months – see Accreditation – Level 2 for more information on accreditation requirements

## Course outcomes and learning experiences – Part A

- 23 Upon completion of Part A (Mediator Theory and Practice) trainees will be able to:
  - (1) Locate and interpret information within the Code, including:
    - (a) The role of the Code in governing professional mediators in Australia
    - (b) The Training and Accreditation Framework
    - (c) Professional Practice Standards, including the Code of Ethics
  - (2) Demonstrate:
    - (a) The quality criteria for Professional Knowledge as set out in the Training and Accreditation Framework's Graduate Standard, or equivalent quality criteria
    - (b) The quality criteria for Professional Skills as set out in the Training and Accreditation Framework's Graduate Standard, or equivalent quality criteria
- 24 Part A (Mediator Theory and Practice) will engage trainees in a range of learning experiences which must include:
  - (1) At least nine simulated mediations, in at least three (3) of which each trainee will perform the role of mediator
    - (a) The trainee performing the role of the mediator will be provided with structured written peer-to-peer feedback for each simulation
  - (2) Two simulated mediations, each of at least 1.5 hours in duration, in which the trainee performs the role of the mediator
    - (a) The trainee will be observed by two different coaches, both of whom will provide structured written feedback
  - (3) Standardised modules developed by the Code's Recognised Training Providers for training in relation to:

- (a) Cultural awareness, and
- (b) Diversity and Inclusion

## Course staff experience and qualifications – Part A

- 25 Part A (Mediator Theory and Practice) must be staffed with:
- (1) A training team:
    - (a) Of at least two trainers in which, the principal trainer has:
      - (i) More than three (3) years of experience as an accredited mediator; and
      - (ii) More than three (3) years of experience and as a trainer
    - (b) Who have completed the feedback and moderated assessment modules as set out in the requirements for Recognised Training Providers (RTPs)
  - (2) Additional coaches:
    - (a) Who have at least two (2) years or 50 hours of experience as an accredited mediator
    - (b) In sufficient numbers to allow each trainee to be observed performing the role of mediator by different coaches in two simulated mediations, each of at least 1.5 hours in duration;
    - (c) Of which at least half have completed the feedback and moderated assessment modules as set out in the requirements for Recognised Training Providers
  - (3) An assessor:
    - (a) Who has at least three (3) years of experience as an accredited mediator
    - (b) With no conflict of interest with respect to the trainee or applicant
    - (c) Who is independent of the training team
    - (d) Who has completed the feedback and moderated assessment modules as set out in the requirements for Recognised Training Providers

## Course assessment – Part A

- 26 Part A (Mediator Theory and Practice) incorporates a range of feedback and assessment within the learning experiences. Each course must include:
- (1) Ongoing feedback
    - (a) MSB to engage with assessment and feedback experts to specify the mandatory requirements – this may take the form of references to being in accordance with Code related feedback and assessment training described under the requirements for becoming and RTP. Alternatively, it may include specific provisions written into the Code
  - (2) Formative assessment
    - (a) Standardised observation
      - (i) As part of the nine simulated mediations, in at least three of which trainees perform the role of mediator
        - (A) Peer (similarly knowledgeable other)

- (i) MSB to develop in consultation with experts see above
    - (B) Coach (more knowledgeable other)
      - (i) MSB to develop in consultation with experts see above
  - (b) Reflective practice
    - (A) MSB to develop in consultation with experts see above
- (3) Summative assessment
- (a) Professional Knowledge must be assessed:
    - (i) Against each of the focus areas
    - (ii) Using the quality criteria set out in the Graduate Standard or equivalent quality criteria – see Knowledge: Indicative level of quality or complexity required
    - (iii) In the form of ...
      - (A) MSB to develop in consultation with experts see above
  - (b) Professional Skills
    - (i) Against each of the focus areas
    - (ii) Using the quality criteria set out in the Graduate Standard or equivalent quality criteria – see Skills: Indicative level of quality or complexity required
    - (iii) In the form of a standardised observation of a simulated mediation of at least 1.5 hours, and:
      - (A) The trainee performing the role of a mediator or co-mediator
      - (B) An assessor observing a simulation (in real-time or digitally or video recorded for later observation)
        - (i) Note: the assessor must not provide any feedback or coaching to the applicant during the simulated mediation
- 27 The assessment for Part A (Mediator Theory and Practice) must:
- (1) Be provided at the commencement of the course, or at least two weeks prior to the due date
  - (2) Be criterion-referenced or standards-referenced as appropriate to the purpose and type of assessment, and explicitly connected to the Professional Attributes and associated focus areas being assessed
    - (a) Note: assessments must NOT be norm-reference i.e. trainees must NOT be assessed using a bell-curve and/or their relative rank within the cohort
  - (3) Follow the principles for feedback and assessment as set out in the MSB's feedback and moderated assessment training\*
  - (4) Specify:
    - (a) The status of the task, e.g., if obtaining a particular grade is a hurdle requirement for the successful completion of the course
    - (b) The options available should a trainee not meet the assessment criteria to the specified level of quality e.g. the number of attempts allowed or options for supplementary assessment
    - (c) How to appeal the outcome of an assessment, including scope and process for remarking

\*Note: The MSB may consider developing, in consultation with assessment experts, a set of generic assessment tasks or common role plays to be used or adapted by training providers. A note about the availability of common role-plays and assessment can be inserted here.

## Course outcomes and learning experiences – Part B

- 28 Upon completion of Part B (Mediator Practicum) trainees will be able to:
- (1) Locate and interpret information within the Code, including:
    - (a) The role of the Code in governing professional mediators in Australia
    - (b) The Training and Accreditation Framework
    - (c) Professional Practice Standards, including the Code of Ethics
  - (2) Demonstrate:
    - (a) The criteria for Professional Knowledge as set out Accredited Mediator Standard – see Knowledge: Indicative level of quality or complexity required
    - (b) The criteria for Professional Skills as set out in the Accredited Mediator Standard – see Skills: Indicative level of quality or complexity required
- 29 Part B (Mediator Practicum) will engage trainees in a range of learning experiences, and which must include:
- (1) Experiential learning ...
    - (a) MSB to engage experts in experiential learning design to set out requirements in a similar way to Part A above
    - (b) Learning experiences typically include simulated placement and external placement similar to the requirements of FDRP placement and Practical Legal Training such as Leo Cussens
  - (2) Standardised modules developed by the Code’s Recognised Training Providers for training in relation to:
    - (a) Cultural awareness in practice, and
    - (b) Diversity and Inclusion in practice

## Course staff experience and qualifications – Part B

- 30 Part B (Mediator Practicum) must be staffed with:
- (1) A training team:
    - (a) MSB to seek advice from expert per above
    - (b) Who have completed the feedback and moderated assessment modules as set out in the requirements for Recognised Training Providers
  - (2) Additional coaches:
    - (a) MSB to seek advice from expert per above
    - (b) In sufficient numbers to allow ... as per expert advice;
    - (c) Of which at least half have completed the feedback and moderated assessment modules as set out in the requirements for Recognised Training Providers
  - (3) An assessor:
    - (a) MSB to seek advice from expert per above

- (b) With no conflict of interest with respect to the trainee or applicant
- (c) Who is independent of the training team
- (d) Who has completed the feedback and moderated assessment modules as set out in the requirements for Recognised Training Providers (RTPs).

## Course assessment – Part B

31 Part B (Mediator Practicum) incorporates a range of feedback and assessment within the learning experiences. Each course must include:

- (1) Ongoing feedback
  - (a) MSB to develop in consultation with experts see above
- (2) Formative assessment
  - (a) As part of MSB to develop in consultation with experts see above
    - (i) Standardised observation
      - (A) Peer similarly knowledgeable other
        - (i) MSB to develop in consultation with experts see above
      - (B) Coach (more knowledgeable other)
        - (i) MSB to develop in consultation with experts see above
  - (b) Reflective practice
    - (i) MSB to develop in consultation with experts see above
- (3) Summative assessment
  - (a) Professional Knowledge must be assessed:
    - (i) Against each of the focus areas
  - (b) Using the quality criteria set out in the Accredited Mediator Standard or equivalent quality criteria – see Knowledge: Indicative level of quality or complexity required
    - (i) In the form of ...
      - (A) MSB to develop in consultation with experts see above
  - (c) Professional Skills
    - (i) Against each of the focus areas
    - (ii) Using the quality criteria set out in the Accredited Mediator Standard or equivalent quality criteria – see Skills: Indicative level of quality or complexity required
      - (iii) In the form of MSB to develop in consultation with experts see above
        - (A) The trainee performing the role of a mediator
        - (B) An assessor observing a simulation (in real-time or digitally or video recorded for later observation)
          - (i) Note: the assessor must not provide any feedback or coaching to the applicant during the simulated mediation

32 The assessment for Part B (Mediator Practicum) must:

- (1) Be provided at the commencement of the course, or at least two weeks prior to the due date
- (2) Be criterion-referenced or standards-referenced as appropriate to the purpose and type of assessment, and explicitly connected to

## LINKS TO THE AUSTRALIAN QUALIFICATIONS FRAMEWORK

the Professional Attributes and associated focus areas being assessed

- (a) Note: assessments must NOT be norm-referenced i.e. trainees must NOT be assessed using a bell-curve and/or their relative rank within the cohort
- (3) Follow the principles for feedback and assessment as set out in the MSB's feedback and moderated assessment training\*
- (4) Specify:
  - (a) The status of the task, e.g., if obtaining a particular grade is a hurdle requirement for the successful completion of the course
  - (b) The options available should a trainee not meet the assessment criteria to the specified level of quality e.g. the number of attempts allowed or options for supplementary assessment
  - (c) How to appeal the outcome of an assessment, including scope and process for remarking

\*Note: The MSB may consider developing, in consultation with assessment experts, a set of generic assessment tasks or common role plays to be used or adapted by training providers. A note about the availability of common role plays and assessment can be inserted here.

## AQF - Level 8

- 33 While the Code's initial mediator training described above is not currently recognised under the Australian Qualifications Framework, the Code requires that the content, learning experiences and assessment for Parts A and B are consistent with the requirements at Level 8 - Graduate Certificate\*.
- 34 For the sake of clarify, the AQF requires that Graduates of a Graduate Certificate will:
  - (1) Have specialised knowledge within a systematic and coherent body of knowledge that may include the acquisition and application of knowledge and skills in a new or existing discipline or professional area:
    - (i) cognitive skills to review, analyse, consolidate and synthesise knowledge and identify and provide solutions to complex problems
    - (ii) cognitive skills to think critically and to generate and evaluate complex ideas specialised technical and creative skills in a field of highly skilled and/or professional practice
    - (iii) communication skills to demonstrate an understanding of theoretical concepts
    - (iv) communication skills to transfer complex knowledge and ideas to a variety of audiences
  - (2) Demonstrate the application of knowledge and skills:
    - (a) to make high-level, independent judgements in a range of technical or management functions in varied specialised contexts
    - (b) to initiate, plan, implement and evaluate broad functions within varied specialised technical and/or creative contexts

- (c) with responsibility and accountability for personal outputs and all aspects of the work or function of others within broad parameters

\*Note: The MSB may consider recognition under the AQF as part of their strategic plan arising out of Recommendation 1 – if this is the case, it may be useful to provide an explanatory note here.

## RECOGNITION OF PRIOR LEARNING AND ALTERNATIVE PATHWAYS

### Alternative training and assessment

- 35 The Code requires that recognition of prior learning and alternative pathways are offered in a manner that is consistent with the AQF's Pathways policy. This means that Recognised Training Providers may apply the policy to recognise alternative training and assessment in relation to initial mediator training Part A and/or Part B. The following provides three (3) common scenarios as guidance on how to apply a pathways policy to the Code.
- 36 An applicant may alternatively meet the requirements for training and assessment by providing evidence to an RTP of:
  - (1) Scenario 1 – Comparable training and assessment having:
    - (a) Completed a comparable mediator training course; and
    - (b) Been found competent in a comparable assessment.
  - (2) Scenario 2 – Experience, education and assessment having:
    - (a) Conducted at least 100 hours of mediation, and
    - (b) Otherwise met the continuing accreditation requirements described in the renewal requirements within the two (2) years prior to application; and
  - (c) Two references attest to the:
    - (i) Applicant's competence with reference to the Professional Attributes; and
    - (ii) Applicant having completed comparable training and supervision; and
    - (iii) Applicant being found competent in a comparable assessment.
  - (3) Scenario 3 – Diverse knowledges<sup>\*xxi</sup>, experience and assessment having:
    - (a) Mediation experience and knowledge of the unique values and characteristics of the diverse community with which the applicant identifies; and
    - (b) Two references that attest to the:
      - (i) Applicant's competence with reference to the Professional Attributes as appropriate to the given diverse context e.g. the applicant might practice within a specialist context which requires the provision of cultural information or guidance beyond the limits the Code's Graduate Standard; and
      - (ii) Applicant being found competent in a comparable assessment which also accounts for the diverse context e.g., the assessment may be in the applicant's preferred language.

\*Note: See also APPENDIX 1 – THE EIGHT ENABLERS



## CREDIT TOWARDS OTHER COURSES OR ACCREDITATIONS

### Graduate Diploma Family Dispute Resolution

- 37 The *Family Law (Family Dispute Resolution Practitioners) Regulations 2008* (Cth) s5(3) provides that Family Dispute Resolution Practitioners (FDRP) may use NMAS accreditation towards their FDRP Accreditation.
- 38 Under the Code, Accredited Mediator status supersedes NMAS Accreditation status. This means that in order to fulfil the accreditation criteria set out in s5(3) *Family Law (Family Dispute Resolution Practitioners) Regulations 2008* (Cth), an applicant must satisfy the requirements for both Part A (Mediator Theory and Practice) and Part B (Mediator Practicum)
- 39 Nothing in the above prevents an FDRP training provider from applying the AQF pathway policy to mediator training or experience falling outside of the Code
- (1) For example, an FDRP training provider may apply the pathways policy to a mediator training course which formerly satisfied the requirements for NMAS Accreditation. However, the credit:
- (a) Must be calculated and offered in accordance with the AQF pathways policy as it applies to the Graduate Diploma; and
  - (b) Must not be used as accreditation criteria as described in 5(3) *Family Law (Family Dispute Resolution Practitioners) Regulations 2008* (Cth)

### Other courses or accreditations

- 40 Registered Training Organisations (RTOs) and Higher Education Providers may, at their discretion, recognise Part A (Mediator Theory and Practice) and/or Part B (Mediator Practicum) under the AQF pathways policy – see above [LINKS TO THE AUSTRALIAN QUALIFICATIONS FRAMEWORK](#)

## COMPLAINTS ABOUT TRAINING

### Commentary – ACCC Guidance

- **Include a description of how to make complaints about training based on the complaints mechanism adopted – see [Part 2 COMPLAINTS HANDLING – ACCC GUIDANCE](#).**

## COMMENTARY

- Throughout the consultation process, general concerns were raised about the fact that MSB Member Orgs are often small organisations.
  - This potentially leads to a reliance on training to earn income which may raise ethical issues about representations of career prospects.
- The peak body (MSB) with the most responsibility for oversight and support is largely run by volunteers.
- Specific concerns raised during consultation regarding:
  - Ad hoc use of existing training competencies<sup>xxii</sup> in an attempt to provide consistency across Recognised Training Organisations (RTO)
  - Alignment with AQF<sup>xxiii</sup> and apparent 'shortcut' to FDR accreditation, which is an AQF level 8 Graduate Diploma (see NMAS Review 2020-22 Mapping the NMAS against FDRP Regulations and other Frameworks document)
    - By aligning the Code's training with the AQF, and specifically the Level 8 Grad Certificate, NMAS accreditation retains alignment and recognition towards the FDRP Grad Diploma. However, it no longer offers a shortcut via a disproportionate amount of credit.
    - However, it is worth noting that FDRPs can be captured under the accreditation framework as Specialist Practitioners. This is one of the advanced levels of accreditation and, as such, recognises the specialist expertise required for FDRPs
  - Experience/qualifications of trainers and coaches not matched against competencies for training and assessment. E.g. qualified trainers with a Cert IV VET Qualification.<sup>xxiv</sup>
  - Training and accreditation providers did not have a consistent understanding of expectations in terms of the Approval and Practice Standards (NMAS Survey Part 2).
  - Many also had expectations that were inconsistent with the expectations identified by the MSB.
- It is strongly recommended that the MSB develop, in collaboration with experts such as the Assessment Research Centre (ARC), standard modules on providing feedback and moderated assessment. This is essential to ensure both are of high quality and consistent across providers. It will also enable the use of data captured via this survey as the methods used to develop these Standards contained within the Code are drawn from those pioneered at the ARC.



## ACCREDITATION REQUIREMENTS

## ACCREDITATION PROVIDERS

## APPLICATION FOR ACCREDITATION

# THE CODE – REQUIREMENT 3

## Overview

*To obtain and maintain accreditation, mediators and specialist practitioners must demonstrate the professional and personal attributes articulated in the Code.*

The Code's Training and Accreditation Framework (TAF) recognises that attempts to assure quality, consistency and transparency can inadvertently result in inflexible or unidimensional outcomes, which sometimes run the risk of:

- Stifling or obscuring the development and evolution of practice which naturally arises in response to experience and the context in which a practitioner operates,
- Being deemed as theoretical or aspirational requirements that are largely ignored.

The Code's accreditation requirements are designed to strike an appropriate balance by providing a common set of attributes that span different levels of accreditation based on the extent of the practitioner's experience or specialist expertise.

## Who is authorised to accredit mediators and specialist practitioners under the Code?

41 Only Recognised Accreditation Providers (RAPs) are authorised to offer a mediator and specialist practitioner a level of accreditation status as set out within the Code's TAF.

For more information on the requirements for becoming a Recognised Accreditation Provider, see – RECOGNISED ACCREDITATION PROVIDERS.

## General accreditation requirements

42 An applicant must be of good character and possess appropriate professional and personal qualities to assist people resolve conflict competently and professionally.

(1) An applicant must:

- (a) Provide written references from two members of their community who have known them for more than three years to the effect that they are of good character, or demonstrate that they already satisfy this requirement under another system;

## LEVELS AND TYPES OF ACCREDITATION

- (b) Disclose if they have been disqualified from any type of professional practice;
- (c) Disclose any criminal conviction;
- (d) Disclose any impairment that could influence their capacity to discharge their obligations in a competent, honest and professional manner;
- (e) Disclose if they have ever been refused accreditation or accreditation renewal or had their accreditation suspended or cancelled;
- (f) Comply with the Code, with any relevant legislation, professional standards and any other requirements that may be relevant to them;
- (g) Become and remain:
  - (i) a member of an RAP,
  - (ii) a member or employee of a Recognised Service Provider, or
  - (iii) member or employee of an equivalent organisation with a relevant ethical code or standard and a complaints and disciplinary procedure that can address complaints against mediators; and
- (h) Be covered by professional indemnity insurance commensurate with their level of accreditation under the Code or have statutory immunity – see insurance requirements for details.

### Procedural requirements

- 43 The applicant must:
- (1) Pay the National Register registration fee in accordance with their RAPs practices;
  - (2) Acknowledge that an RAP (RMAB) can disclose information about them to the CAC, MSB or other Code-related delegate and the CAC, MSB or other Code-related can release it to other RAPs (RMABs) upon request;
  - (3) Not attempt to move their accreditation between RAPs without the formal consent of the CAC or delegate, in circumstances where:
    - (a) They are subject to an RAP process in relation to:
      - (i) A complaint
      - (ii) Disciplinary or remedial action
      - (iii) Suspension or cancellation of their accreditation
    - (b) They are on a leave of absence from an RAP.

### Accreditation – Level 1

- 44 Graduates must:
- (1) Demonstrate the professional attributes to the level of quality described in the Graduate Standard – see PROFESSIONAL PRACTICE STANDARDS . To do this they must:
  - (2) Hold certification from a Recognised Training Provider stating:
    - (a) They have met the requirements for Part A (Mediator Theory and Practice)

- (i) Having successfully completed the Part A (Mediator Theory and Practice) course, or
  - (ii) Via an alternative pathway
  - (b) Fulfill any procedural requirements of the general accreditation requirements
- 45 Graduates are not required to meet any other accreditation requirements.

Note: Graduates do not need to seek accreditation, however some may find it useful option if they are yet to decide if they will pursue any other level of accreditation. They may also pursue this option to enable formal recognition of their completion of Part A (Mediator Theory and Practice).

## Accreditation – Level 2

- 46 Associate practitioners must
- (1) Demonstrate the professional attributes to the level of quality described in the Associate Practitioner Standard – see PROFESSIONAL PRACTICE STANDARDS. To do this they must:
  - (2) Hold certification from a Recognised Training Provider stating:
    - (2) They have met the requirements for Part A (Mediator Theory and Practice)
      - (a) Having successfully completed the Part A (Mediator Theory and Practice) course, or
      - (b) Via an alternative pathway
  - (3) Meet the general accreditation requirements, including any procedural requirements
  - (4) Meet any ongoing renewal of accreditation requirements
- 47 Provisionally accredited mediators or specialist practitioners must:
- (1) Demonstrate the professional attributes to the level of quality described in the Provisionally Accredited Mediator or Provisionally Accredited Specialist Practitioner Standard – see PROFESSIONAL PRACTICE STANDARDS. To do this they must:
  - (2) Hold certification from a Recognised Training Provider stating:
    - (5) They have met the requirements for Part A (Mediator Theory and Practice)
      - (a) Having successfully completed the Part A (Mediator Theory and Practice) course, or
      - (b) Via an alternative pathway
        - (i) They are enrolled in Part B (Mediator Practicum)
  - (6) Meet the general accreditation requirements, including any procedural requirements and insurance requirements
  - (7) Meet any ongoing renewal of accreditation requirements

## Accreditation – Level 3

- 48 Accredited mediators must:
- (1) Demonstrate the professional attributes to the level of quality described in the Accredited Mediator Standard – see PROFESSIONAL PRACTICE STANDARDS. To do this they must:
    - (a) Hold certification from a Recognised Training Provider stating:
      - (i) They have met the requirements for Part A (Mediator Theory and Practice) and Part B (Mediator Practicum)

- (2) Meet the general accreditation requirements, including any procedural requirements and insurance requirements
- (3) Meet any ongoing renewal of accreditation requirements
- (4) Complete the following requirements before applying to progress to Advanced Practitioner Status:
  - (a) One accreditation period (2 years)
  - (b) At 12 months of professional supervision under a Level 4 mediator or practitioner who can provide support in relation to the provision of information, guidance and advice
  - (c) Obtain and maintain Level 4 insurance

## Accreditation – Level 4

49 Advanced mediators, master mediators must:

- (1) Demonstrate the professional attributes to the level of quality described in the Advanced Mediator or Master Mediator & Practitioner Standard – see PROFESSIONAL PRACTICE STANDARDS. To do this they must:
  - (a) Have held accredited mediator status for at least one renewal cycle and
  - (b) Be assessed by the RAP (or other body as decided by the MSB) as demonstrating advanced mediator or master mediator standards
    - (i) The MSB, in consultation with experts in the assessment of complex competencies and RAPs must develop a standard or common process for mediators to demonstrate they have met the standard. This might also be linked to modules on feedback and assessment referenced in the training requirements.
- (2) Meet the general accreditation requirements, including any procedural requirements
- (3) Meet any ongoing renewal of accreditation requirements

50 Specialist Practitioners must:

- (1) Demonstrate the professional attributes to the level of quality described in the Specialist Practitioner Standard - PROFESSIONAL PRACTICE STANDARDS. To do this they must:
  - (a) Hold certification from a Recognised Training Provider stating:
    - (i) They have met the requirements for Part A (Mediator Theory and Practice) and Part B (Mediator Practicum)
      - (a) Having successfully completed the Part A (Mediator Theory and Practice) course, or
      - (b) Via an alternative pathway, such as service-based training and experience gained over a period of not less than two years
  - (b) Be assessed by the RAP (or other body as decided by the MSB) as demonstrating specialist standards
    - (i) The MSB, in consultation with experts in the assessment of complex competencies and the specialist service provider, specialist association or co-existing accreditation body must develop a standard or common process for specialist to demonstrate they have met the standard. This might

also be linked to modules on feedback and assessment referenced in the training requirements.

- (2) Meet the general accreditation requirements, including any procedural requirements
- (3) Meet any ongoing renewal of accreditation requirements

## RENEWAL

### Renewal of accreditation requirements

- 51 Accreditation under the Code's TRAINING AND ACCREDITATION FRAMEWORK lasts for two (2) years, after which the applicant must apply to their RAP for a renewal of accreditation. This applicant to:
- (1) Provide evidence to the RAP (RMAB) that they have satisfied the renewal requirements within the two years preceding the application for renewal; or
  - (2) Provide evidence they meet that they:
    - (a) Meet the criteria for adjusted renewal requirements; and
    - (b) That they have satisfied the adjusted renewal requirements within the two years preceding the application for renewal.
- 52 All renewals are subject to a two-year cycle. Each type and level of accreditation contains a practice element and a continuing professional development element as part of their renewal requirements. However, the specific requirements may vary according to the type and level of accreditation being renewed.

### What is the practice element of the renewal requirements?

- 53 To satisfy the practice element of the renewal requirement:
- (1) An associate practitioner must:
    - (a) Participate in at least 25 hours of conflict resolution or mediation related practice e.g.:
      - (i) Be a party or support person in a mediation,
      - (ii) Provide support to an employee to have a difficult conversation
  - (2) An accredited mediator must:
    - (a) Conduct at least 25 hours of mediation or co-mediation
  - (3) An advanced mediator or specialist practitioner must:
    - (a) Conduct at least 25 hours of mediation, co-mediation or specialised practice within the area of advanced expertise e.g.:
      - (i) Mediators offering expert advisory mediation conduct at least 25 hours of mediation related to their area of expertise e.g. construction disputes
      - (ii) Conciliators conduct at least 25 hours of conciliation
      - (iii) FDRPs conduct at least 25 hours of FDR
      - (iv) Specialist practitioners working within a Specialist Provider of Dispute Resolution Services (SPDRS) conduct at least 25 hours of the specialist practice offered by the SPDRS
  - (4) A master mediator or master specialist practitioner must:
    - (a) Conduct at least 25 hours of:
      - (i) mediation or co-mediation, or specialised practice

## What is the continuing professional development element of the renewal requirements?

- 54 To satisfy the continuing professional development element of the renewal requirement mediators and specialist practitioners must undertake CPD which contributes to the development or maintenance of their Professional Attributes and level or type of accreditation
- (1) A provisionally accredited mediator or specialist practitioner must:
    - (a) Participate in at least 25 hours of CPD as set out in APPENDIX 6 – CPD HOURS
  - (2) An associate practitioner must:
    - (a) Participate in at least 25 hours of CPD as set out in APPENDIX 6 – CPD HOURS
    - (b)
  - (3) An accredited mediator must:
    - (a) Participate in at least 25 hours of CPD as set out in APPENDIX 6 – CPD HOURS
  - (4) An advanced mediator or specialist practitioner must:
    - (a) Participate in at least 30 hours of CPD as set out in APPENDIX 6 – CPD HOURS
  - (5) A master mediator or master specialist practitioner must:
    - (a) Participate in at least 30 hours of CPD as set out in APPENDIX 6 – CPD HOURS
- 55 Continuing professional development hours relied upon for any one renewal of accreditation must not be used for any subsequent renewal of accreditation.

## Can the renewal requirements be adjusted?

- 56 A mediator or specialist practitioner who has not met the practice or CPD elements of the renewal requirements:
- (1) Due to contextual or intersectional factors including one or a combination of:
    - (a) Lack of work opportunities
    - (b) Health or career circumstances or
    - (c) Residence in non-urban or
    - (d) Other barrier to accessibility or inclusion
  - (2) May negotiate adjusted renewal requirements matched to the mediator or specialist practitioner's level of accreditation and their specific circumstances. This may include:
    - (a) A reduction to 10 hours practice
    - (b) Supplementary training, coaching and/or assessment
    - (c) A variation to the CPD breakdown or hours
- 57 RAPs must collect ongoing de-identified data on adjustments to assist the RAP and the CAC identify systemic contextual and intersectional barriers, including:
- (1) The MSB must seek expert guidance on the best approach to collect such data, with the view to working collaboratively with the people most at risk of being negatively impacted by contextual and



intersectional factors and organisations such as the Australian Human Rights Commission

## Procedural requirements

- 58 A mediator or specialist practitioner must pay to the relevant RAP (RMAB) the National Register registration fee at the time of accreditation renewal (unless the RAP or Recognised Service Provider pays that fee to the MSB on their behalf).
- 59 A mediator or specialist practitioner must meet these requirements within two months of the due date for renewal of accreditation or their accreditation automatically lapses.

## INSURANCE

### What type of coverage is required?

- 60 It is a condition of accreditation that mediators and specialist practitioners are covered by professional indemnity insurance or statutory immunity. The extent or level of coverage is determined by the level of accreditation as follows:
- (1) Level 1
    - (a) Training Graduate
      - (i) Not applicable
  - (2) Level 2
    - (a) Associate Practitioner
      - (i) Not applicable
    - (b) Provisionally Accredited Mediator
      - (i) Standard coverage professional indemnity (MSB to add reference to the level currently offered to mediators), or statutory immunity
    - (c) Provisionally Accredited Specialist Practitioner
      - (i) Extended coverage professional indemnity (MSB to provide guidance on levels commensurate with specialist expertise being relied upon or information guidance and advice to be provided), or statutory immunity
  - (3) Level 3
    - (a) Accredited Mediator
      - (i) Standard coverage professional indemnity (MSB to add reference to the level currently offered to mediators), or statutory immunity
  - (4) Level 4
    - (a) Specialist Practitioner, Advanced Mediator/ Practitioner or Master Mediator / Master Specialist Practitioner
      - (i) Extended coverage professional indemnity (MSB to provide guidance on levels commensurate with the advanced or specialist expertise being relied upon or information guidance and advice to be provided), or statutory immunity
- 61 A mediator or specialist practitioner seeking leave of absence on the basis of health, career or other special circumstances must provide evidence to their accrediting RAP (RMAB) of the circumstances upon which, and the period for which, leave is being sought. The RAP

## LEAVE OF ABSENCE

## SUSPENSION OR CANCELLATION

(RMAB) may grant or refuse the request, or grant it subject to conditions, having regard to the circumstances.

- 62 Where leave of absence is granted for a period of 12 months or less, the RAP (RMAB) must remove the mediator's name from the National Register for the period of leave and extend the due date for renewal of that mediator's accreditation by an amount equivalent to the period of leave.
- 63 Where leave of absence is granted for a period greater than 12 months, the RAP (RMAB) must remove the mediator's name from the National Register and that mediator must apply for re-instatement of their accreditation.
- 64 An RAP (RMAB) must not grant a period of leave of absence that commences more than two months prior to the day upon which an application for leave of absence is made.
- 65 Where a mediator is significantly non-compliant with their obligations under the Code, an RAP (RMAB) may, subject to the requirements of procedural fairness:
  - (1) Suspend the mediator or specialist practitioner's accreditation and having regard to the circumstances, specify any conditions that must be met by that mediator or specialist practitioner prior to seeking re- instatement of accreditation.
  - (2) Cancel the mediator or specialist practitioner's accreditation
- 66 Where and RAP suspends or cancels a mediator or specialist practitioner's accreditation they must, without delay:
  - (1) Remove that mediator or specialist practitioners name from the National Register
  - (2) Notify the Code Administration Committee (CAC) (or delegate) of the details of a mediator or specialist practitioner whose accreditation it has suspended or cancelled
- 67 The CAC (or delegate) may on request, disclose information received under another RAP (RMAB).

## RE- INSTATEMENT OF ACCREDITATION

- 68 An applicant seeking re-instatement must:
  - (1) Disclose the date from which they were first granted accreditation under the Code (NMAS), and specify the:
    - (a) Period of leave of absence or
    - (b) Date upon which their accreditation lapsed or
    - (c) Date upon which their accreditation was suspended
- 69 Where the applicant seeks reinstatement after
  - (1) A leave of absence they must:
    - (a) Provide evidence to the RAP (RMAB) that:
      - (i) They meet the accreditation requirements, and
      - (ii) Any conditions imposed at the grant of a period of leave of absence have been met prior to seeking re-instatement
    - (2) Their accreditation has lapsed they must:
      - (a) Provide evidence to an RAP (RMAB) that they have met the accreditation renewal requirements in the two years immediately prior to seeking re-instatement
      - (b) Where the practice requirement of the renewal requirements has not been met, undertake supplementary practical training,

## WAIVER OF ACCREDITATION REQUIREMENTS

## COMPLAINTS ABOUT ACCREDITATION

## COMMENTARY

coaching and/or assessment, as approved by the RAP (RMAB), to address the shortfall

(3) Their accreditation was suspended they must:

(a) Provide evidence to the RAP (RMAB) that any conditions imposed at the time of suspension have been met prior to seeking re-instatement

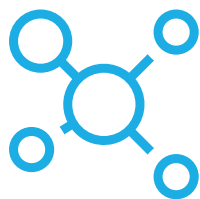
70 Accreditation will be re-instated from the date upon which the relevant RAP (RMAB) assesses the applicant as having satisfied the requirements

71 Re-instatement of accreditation cannot be granted more than once in every four years.

72 In exceptional circumstances the Code Administration Committee (or delegate) may, conditionally or otherwise, waive compliance with any provision of the Code's Accreditation Requirements on application by Recognised Accreditation Provider.

### Commentary – ACCC Guidance

- **Include description of how to make complaints about accreditation based on the complaints mechanism adopted – see Part 2 COMPLAINTS HANDLING – ACCC GUIDANCE.**
- **Consultation identified interest from some quarters for the potential inclusion of a National Police Check or Working with Children Check. Given the wide variety of contexts within which accredited mediators and specialist dispute resolution practitioners might work, the inclusion of these checks may be unduly prohibitive. Instead, it is recommended that any such requirements remain beyond the scope of this Code.**
- **The MSB is encouraged to engage an expert to develop models and templates for CPD activities and specifically effective self-reflection and professional supervision – within out example structures the value is often lost.**



# THE CODE – REQUIREMENT 4

## RECOGNISED SERVICE PROVIDERS

### Overview

*In the same way accredited mediators and specialist practitioners value the trust placed in them to help people resolve their disputes, mediation and NDR service providers recognise the benefit of making a similar commitment to protecting and upholding public and institutional confidence in the profession\*.*

73 The Code accommodates this by providing a service provider quality mark or 'tick' to signify the providers' commitment to using accredited mediators or specialist practitioners within the context of a service that supports their practitioners to meet their obligations under the Code.

\*This is subject to the MSB's decision in relation to mediation being a profession as per Recommendation 1.

## GENERAL SERVICES

### General Provider of Mediation Services (GPMS) requirements

74 General Providers of Mediation Service (GPMS) are authorised to display the GPMS quality mark or 'tick'. The 'quality tick' signifies:

- (1) A commitment to ensuring at least 85% of their mediators are accredited mediators or in the process of becoming accredited mediators.
- (2) That the service only offers processes consistent with traditional facilitative mediation. This means the service does not provide information, guidance or advice, except where it relates to the facilitative mediation process.

## SPECIALIST SERVICES

### Specialist Provider of Dispute Resolution Services (SPDRS) requirements

75 Specialist Providers of Dispute Resolution Services (SPDRS) are authorised to display the SPDRS quality mark or 'tick' signifying their commitment to ensuring:

- (1) At least 85% of their specialist practitioners are accredited or in the process of becoming accredited or,
- (2) If the process is co-facilitated, at least 85% of the time, one of the practitioners will be accredited or in the process of becoming accredited

- (3) Providing explicit and user-friendly information about the types of NDR the service offers and, if appropriate, how it is distinguishable from traditional facilitative mediation

## INDIVIDUALS

### Individual Providers of Dispute Resolution Services Requirements\*

76 An Individual Provider of Dispute Resolution Services is a sole mediator or specialist practitioner who is accredited under the Code, thus signifying their commitment to the Code of Ethics, including the requirement to be honest and transparent in relation to the approach or the type of NDR process or processes they use.

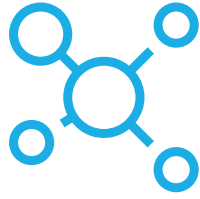
\*Note: This term is of no practical use and as such is not used throughout the document. However, it has been included in this section of the Code for the sake of completeness.

## COMPLAINTS ABOUT SERVICE PROVIDERS

### Commentary – ACCC Guidance

- **Include description of how to make complaints about services based on the complaints mechanism adopted – see Part 2 COMPLAINTS HANDLING – ACCC GUIDANCE.**
- **For more information on SPDRS, including the rationale and service provider examples see Specialist Provider of Dispute Resolution Services (SPDR) – new MSB membership classification pptx.**
- **There is an inherent conflict in the use of success rates for KPIs, funding, focus on settlement rates and the casual nature of the industry/insecure work, success rates as part of interviews for panels etc.**
- **It's an ethical dilemma which potentially contradicts 11.1, Part III- Practice Standards in the existing NMAS ('A mediator must not charge fees based on the outcome of a mediation or calculated in a way that could influence the manner in which the mediator conducts the mediation') and potentially undermines other ethical principles.**
- **How this might be navigated in the Code may be something that the MSB can investigate as within the context of Recommendation 1.**
- **Consultation revealed the desire for service providers to have access to their own form of accreditation via a quality mark or 'tick'.**

## COMMENTARY



## CODE BODIES

## THE MEDIATOR STANDARDS BOARD

# THE CODE – REQUIREMENT 5

## Overview

Collectively, the Code Bodies are responsible for the application, implementation and oversight of the Code. Each Code Body has a distinct function and is typically required to meet specific obligations in order to obtain or maintain Code Body status. The Code Bodies are:

- The Mediator Standards Board (MSB)
- The Code Administration Committee (CAC)
- Recognised Accreditation Providers (RAPs)
- Recognised Training Providers (RTPs)
- Recognised Service Providers (RSPs)

## The function of the MSB under the Code

77 The MSB:

- (1) Established the Code and is the founding member of the Code Administration Committee, the body responsible for ensuring the successful implementation and ongoing effectiveness of the Code. Within this context the MSB:
  - (a) Is responsible for the ongoing development, maintenance and review of the and the National Register – for further details see ADMINISTRATION OF THE NATIONAL REGISTER
  - (b) Oversees the application of the Code’s TRAINING AND ACCREDITATION FRAMEWORK with a view to achieving consistency, quality and public protection in connection with:
    - (i) Mediator and specialist practitioner training
    - (ii) Mediator and specialist practitioner accreditation and
    - (iii) Services that provide mediation or specialist NDR;
  - (c) Supports, complements and encourages MSB members (and other signatories) in their efforts to meet their responsibilities in relation to the Code;
  - (d) Amends the Code as required;
- (2) Promotes progressive development in the:
  - (a) Training of mediators and specialist practitioners
  - (b) Accreditation of mediators and specialist practitioners
  - (c) Quality of mediation and specialist NDR services
- (3) Carries out other functions and activities that are necessary or incidental to the above.

## Members of the MSB

## CODE ADMINISTRATION COMMITTEE

### 78 Members of the MSB:

- (1) Must be approved by the MSB in accordance with its Constitution
- (2) Are, by virtue of their MSB membership, deemed to be signatories to the Code
- (3) Must belong to one of the following classes of membership:
  - (a) Recognised Accreditation Providers (RAPs) – also formerly known as RMABs
    - (i) See Recognised Accreditation Providers below
  - (b) Recognised Training Providers (RTPs)
    - (i) See Recognised Training Providers below
  - (c) Professional organisations that are not RAPs and have at least 30 mediator or specialist practitioner members accredited under the Code;
  - (d) National or state representative organisations that have three or more RAP (RMAB) members;
  - (e) Commonwealth, State or Territory government agencies with ADR expertise nominated by the relevant Commonwealth or State Attorney-General's Department, or equivalent, that are not otherwise RAPs (RMABs)
  - (f) Community or state-based mediation or NDR organisations that are not RAPs (RMABs);
  - (g) Consumer organisations that use, but do not provide, mediation or NDR services; and
  - (h) Such other bodies recognised by the MSB from time to time.

### MSB to draft

[A code administration committee needs to be established and its operations written into the code document. That committee should ensure the successful implementation and ongoing effectiveness of the Code.

The code administration committee needs to have representatives of all stakeholder groups and, where appropriate, complaints handling strategies in place. Such representation provides transparency to the scheme by providing a 'public window' into its operations.]

**Further details and commentary are provided in Part 2 CODE ADMINISTRATION COMMITTEE – ACCC GUIDANCE**

## RECOGNISED ACCREDITATION PROVIDERS

### What is a Recognised Accreditation Provider (RAP)?

- 79 A Recognised Accreditation Provider (RAP) is a signatory organisation authorised under the Code to provide mediator or specialist practitioner accreditation in accordance with the requirements of the Code. This includes, but is not limited to:
- (1) RMABs
  - (2) Other organisations recognised under the Code as authorised to accredit:
    - (a) Mediators
    - (b) Other specified types of NDR practitioners under co-existing accreditation frameworks e.g. the Attorney General's Office as the accreditation provider for FDRPs.

### What is required to obtain and maintain recognition as an authorised accreditation provider?

- 80 The Code Administration Committee sets the requirements for any processes involved in obtaining and maintaining recognition under the Code:
- (1) The MSB to indicate what the process is or where this information can be obtained.
- 81 To be a Recognised Accreditation Provider an organisation must, at a minimum, demonstrate they have and maintain:
- (1) Financial membership of the MSB;
    - (a) The MSB to consider if alternative type of financial membership may be required or appropriate depending on the coverage
  - (2) Sound governance structures, financial viability and appropriate administrative resources
  - (3) The capacity and expertise to assess whether applicants meet the requirements under the Code's TRAINING AND ACCREDITATION FRAMEWORK for:
    - (a) Accreditation, including movement between levels or types of accreditation; and
    - (b) Renewal of accreditation, including CPD.
  - (4) The ability to provide or refer members to CPD activities as outlined in Code's TRAINING AND ACCREDITATION FRAMEWORK;
  - (5) Systems or mechanisms to meet their obligations under the Code in relation to:
    - (a) The National Register
    - (b) Complaints handling
    - (c) Compliance
    - (d) Awareness
    - (e) Data collection
    - (f) Monitoring
    - (g) Accountability
    - (h) Review



- (i) Competition
- (j) Performance
- (6) At least 10 mediators or specialist practitioners accredited under the Code's TRAINING AND ACCREDITATION FRAMEWORK, who are bona fide members, panellists or employees.

## RAP (RMAB) responsibilities

- 82 RAPs (RMABs) must:
- (1) Subject to the National Register check, recognise the accreditation of a mediator or specialist practitioner currently accredited under the Code by another RAP (RMAB)
- 83 RAPs (RMABs) must not accredit a mediator or specialist practitioner under the Code:
- (1) Who is already accredited under the Code by another RAP (RMAB), including applicants taking a Leave of Absence;
  - (2) Who is transferring their accreditation between RAPs and:
    - (a) They are subject to an RAP process in relation to:
      - (i) A complaint
      - (ii) Disciplinary or remedial action
      - (iii) Suspension or cancellation of their accreditation, and
    - (b) They do not have explicit consent from the CAC, MSB or Code-related delegate to do so.

## Mutual recognition and National Register check

- 84 Where an RAP (RMAB) is required to recognise the accreditation of a mediator or specialist practitioner accredited by another RAP (RMAB), the RAP:
- (1) Must check the National Register to confirm the mediator or specialist practitioner's most recent RAP and their current accreditation status;
  - (2) May require that a mediator or specialist practitioner to:
    - (a) Provide evidence of accreditation by the other RAP (RMAB) together with a copy of their application materials to that other RAP (RMAB); and
    - (b) Give permission for that other RAP (RMAB) and the CAC, MSB or Code-related delegate to disclose information.

## RECOGNISED TRAINING PROVIDERS

## What is a Recognised Training Provider (RTP)?

- 85 A Recognised Training Provider is a signatory organisation authorised under the Code to provide training in accordance with the requirements of the Code. This includes, but is not limited to:
- (1) Initial mediator training as set out in the Code's Training and Accreditation Framework (TAF)
  - (2) Any other type of training as set out under the Code

## What is required to obtain and maintain recognition as an authorised training provider?

- 86 The Code Administration Committee sets the requirements for any processes involved in obtaining and maintaining recognition under the Code:
- (1) The MSB to indicate what the process is or where this information can be obtained.
- 87 To be a Recognised Training Provider an organisation must, at a minimum, demonstrate they have and maintain:
- (1) Status as a Registered Training Organisation (RTO), or Registered Higher Education provider;
  - (2) Capacity to meet any training or course requirements;
  - (3) Financial membership of the MSB;
    - (a) The MSB to consider if an alternative type of membership may be required or appropriate depending on the coverage
  - (4) Systems or mechanisms to meet their obligations under the Code in relation to:
    - (a) Complaints handling
    - (b) Compliance
    - (c) Awareness
    - (d) Data collection
    - (e) Monitoring
    - (f) Accountability
    - (g) Review
    - (h) Competition
    - (i) Performance
- 88 Nothing above prevents the CAC or MSB from engaging or collaborating with organisations with specialist expertise to develop or deliver curriculum materials or training modules to support Code Bodies, mediators or specialist practitioners meet their obligations under Code. This includes, but is not limited to, the development or delivery of materials in relation to:
- (1) Diversity and inclusion
  - (2) Cultural awareness
  - (3) Feedback and assessment

## RTP responsibilities

- 89 RTPs offering initial mediator training under the Code's TRAINING AND ACCREDITATION FRAMEWORK must offer both Part A (Mediator Theory and Practice) and Part B (Mediator Practicum) as described in the Code

## Recognition of prior learning and the AQF

- 90 Nothing stated above prevents RTPs from recognising prior learning or experience in a manner that is consistent with the AQF pathways policies

## RECOGNISED SERVICE PROVIDERS

### What is a Recognised Service Provider (RSP)?

- 91 A Recognised Service Provider is authorised to display the Code's quality mark or 'tick' identifying them as a provider of mediation or other types of NDR services in accordance with the requirements of the Code. This includes, but is not limited to both public and private services offering:
- (1) Facilitative Mediation
  - (2) Alternative or blended forms of mediation
  - (3) Conciliation
  - (4) Family Dispute Resolution (FDR)

### What is required to obtain and maintain authorisation to carry the Code's quality tick?

- 92 The Code Administration Committee sets the requirements for any processes involved in obtaining and maintaining authorisation to carry the Code's quality tick:
- (1) The MSB to indicate what the process is or where this information can be obtained.
- 93 To be authorised to carry the 'quality tick', a Recognised Service Provider must, at a minimum, demonstrate they have and maintain:
- (1) Capacity to meet the recognised service provider requirements
  - (2) Financial membership of the MSB;
    - (a) The MSB to consider if an alternative type of membership may be required or appropriate depending on the coverage
  - (3) Systems or mechanisms to:
    - (a) Meet their obligations; or
    - (b) Support the purpose, objectives and implementation of the Code, including:
      - (i) Complaints handling
      - (ii) Compliance
      - (iii) Awareness
      - (iv) Data collection
      - (v) Monitoring
      - (vi) Accountability
      - (vii) Review
        - (i) Competition
        - (ii) Performance

### RSP responsibilities

- 94 Recognised Service Providers must commit to:
- (1) Providing accessible and inclusive services
  - (2) Supporting self-determination and informed decision-making
  - (3) Representing the service and competence of their mediators or specialist practitioners honestly and transparently, with specific attention to providing user-friendly information on:
    - (a) The approach or the type of NDR processes offered

- (b) Any fees or charges
- (c) The competence or experience generally or in connection to a specialist context or area of expertise
- (d) Any inducements or affiliations
- (4) Having systems in place to meet any relevant legal, regulatory or professional obligations, including:
  - (a) Maintaining confidentiality and data protection
  - (b) Monitoring and maintaining compliance with obligations under any legislative or regulatory frameworks
  - (c) Monitoring and maintaining compliance with any co-existing professional or specialist obligations related to the context of the service
  - (d) Supporting their mediators or specialist practitioners to meet their continuing professional development requirements
- (5) Ensuring their mediators or specialist practitioners provide information, guidance and advice only when competent and authorised to do so. This may include putting systems or mechanisms in place to ensure their mediators or specialist practitioners:
  - (a) Possess the requisite level of knowledge, skills or expertise
  - (b) Are authorised by the parties
  - (c) Are authorised under their level of accreditation
  - (d) Are covered by statutory immunity or professional indemnity insurance commensurate with their level of accreditation and any service requirements to provide information, guidance and advice
- (6) Providing a feedback mechanism
- (7) Providing a complaints mechanism that is consistent with the Code's complaints handling mechanism

## COMMENTARY

- **Consultation revealed concerns about the lack oversight of training and training providers and the potential for this to undermine the MSB's role in overseeing the Code (NMAS) with the view to achieving quality, consistency and public protection.**
- **The potential changes in nomenclature reflect an expanded scope for the Code (NMAS) to accommodate other types of practitioners and accreditation providers beyond those identifying as mediators or RMABs.**
- **Review of the NMAS (Part VI MSB 1.2) and the MSB constitution (Objects 3B) revealed inconsistency in the obligations of the MSB in relation to training, accreditation and services, including the inconsistent distinction between mediators and mediation. The draft Code remedies this by including training, accreditation and service providers and refocuses the MSB's responsibilities to mediator and specialist practice rather than mediation or any other NDR process. The MSB may need to adjust its constitution accordingly.**

# PART 2 THE CODE – ADMINISTRATION

## CODE ADMINISTRATION – ACCC GUIDANCE

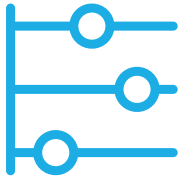
(adapted from '[Guidelines for developing effective voluntary industry codes of conduct](#))

To ensure the Code's requirements are applied effectively in practice it is necessary for the Code's promoters to develop and implement an administrative mechanism.

## COMMENTARY

Unlike Part 1, this section contains guidance and commentary only. There are two reasons for this:

- The review identified an issue, but further consultation is necessary to identify the appropriate modification or change.
- The modification or change required falls beyond the original scope of this review.



# ADMINISTRATION OF THE CODE

## CODE ADMINISTRATION COMMITTEE – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#))

[A code administration committee needs to be established and its operations written into the code document. That committee should ensure the successful implementation and ongoing effectiveness of the Code.

The code administration committee needs to have representatives of all stakeholder groups and, where appropriate, complaints handling strategies in place. Such representation provides transparency to the scheme by providing a 'public window' into its operations.

Typical stakeholders include:

### *Trade associations*

Historically, trade associations as caretakers of industry members have taken an active part in developing and maintaining codes of conduct and generally are able to incorporate into their existing infrastructure a code administration committee.

### *Consumer representatives*

Consumers play an important role in the development of business to consumer codes, code administration and consumer dispute resolution schemes. They will help ensure the Code is more robust in terms of consumer protection and more likely to be accepted by stakeholders.

It is therefore important to ensure that consumer representatives possess specific skills that extend beyond an individual's own personal experience as a consumer.

They must be able to demonstrate that they are:

- capable of reflecting the viewpoints and concerns of consumers
- people in whom consumers and consumer organisations have confidence.

In appointing a consumer representative to participate in a code development, administration committee or dispute resolution scheme the following principles should be taken into consideration:<sup>2</sup>

- appointments must be made on merit and demonstrate the following:
- expertise in consumer affairs
- links to relevant consumer organisations
- capacity and willingness to consult with relevant consumer organisations

- knowledge of, or the ability to acquire knowledge of, the industry/issues involved in the appointment
- appointees must be independent of industry or government
- consumer organisations must be involved in the appointments
- a wide range of candidates should be sought
- the appointment process must be consistent with good corporate governance and, where relevant, good practice in self-regulation
- the appointment process must be transparent, accountable and cost effective.

*Regulatory authority and consumer affairs agencies*

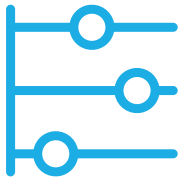
Regulatory agencies or consumer affairs agencies may sit on code development or administration committees if such expertise is needed.

The ACCC has had an observer role on a number of code administration committees. On other occasions the ACCC has helped code administration committees review the Code's effectiveness.

Finally, the appointment of all code administration committee members should be for a prescribed period and those appointments be reviewed regularly to ensure the committee's continued effectiveness.]

## COMMENTARY

- **Despite a general perception that the NMAS was effective<sup>xxv</sup>, there was a striking lack of understanding from both mediators and providers of training and accreditation about many aspects of the NMAS, including the oversight and support mechanisms<sup>xxvi</sup>.**
- **This suggests that the NMAS may not be meeting its full potential in promoting 'quality, consistency and accountability of NMAS accredited mediators'<sup>xxvii</sup>.**
- **Taking into account this lack of understanding, mediators and providers of training and accreditation typically indicated a desire for greater levels of oversight and support in relation to the application or implementation of the NMAS<sup>xxviii</sup> (see also Part 2 COMPLIANCE – ACCC GUIDANCE to see suggestions on accommodating this finding).**
- **Feedback throughout the consultation period revealed a strong desire for the MSB to have deeper engagement with the community. Some of this may be the result of a lack of professional bodies that may ordinarily provide an avenue for engagement, interaction and feedback (see also commentary in the draft Code Part 2 – COVERAGE – ACCC GUIDANCE on professional associations). Specific requests were made for:**
  - **Communities of practice**
  - **Opportunity to give feedback**
  - **Working more closely with MSB**



# ADMINISTRATION OF THE CODE

## COVERAGE – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#)')

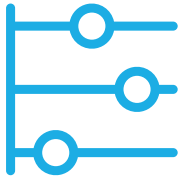
[The wider the coverage a code has in an industry, the more effective it will be. The level of coverage should be measured in terms of number of actual code signatories against potential signatories within the industry, as well as in terms of coverage of the issue that the Code is attempting to address.]

For example, if a code is aiming to correct a market failure issue caused by a minority group and the minority group does not become a signatory to the Code, then the Code is unlikely to achieve its objective.]

## COMMENTARY

- **The draft Code accommodates the potential for an expanded coverage of the NMAS to include a wider range of practitioners, organisations and services (see draft text in the Introduction to the Code – COVERAGE).**
- **Depending on the coverage, potential code administration committee (CAC) members might include:**
  - **The Attorney General's Office**
  - **The Australian Dispute Resolution Advisory Council (ADRAC)**
- **There is a lack of clarity about which organisation/s represent the interests of mediators and other specialist dispute resolution practitioners, i.e. function as professional associations. Failure to identify and include professional associations has the potential to undermine benefits of the Code (see draft text in the Introduction of the Code – BENEFITS), including advancing the professional status of accredited mediators and specialist dispute resolution practitioners.**





# ADMINISTRATION OF THE CODE

## COMPLAINTS HANDLING – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#)')

### Effective Complaints Handling

An effective code will incorporate the following:

- ✓ a definition of complaint that includes any expression of dissatisfaction with a product or service offered or provided
- ✓ a procedure whereby complaints should first be considered by signatories to the Code
- ✓ if the signatories cannot resolve a complaint it should be lodged with the administration committee or an independent decision-maker appointed by the committee
- ✓ performance criteria for effective complaints handling—Standards Australia has developed a benchmark standard for effective complaints handling (AS 10002:2022) which may be revised from time to time.

### Independent review of complaints handling decisions

The Code should also provide for a review mechanism when a member of the public or an industry member is dissatisfied with an initial attempt to resolve the complaint. This internal review mechanism may be offered by the industry association to attempt to conciliate the dispute. If all internal industry efforts fail to resolve the complaint, then the industry should sponsor an independent complaint body to review it. This independent review body should:

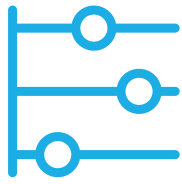
- ✓ be recruited from outside the industry
- ✓ hold no preconceived ideas about the industry
- ✓ have tenure for a fixed period
- ✓ be suitably qualified to hear and resolve complaints.

By recruiting from outside the industry to hear complaints not only is justice being done but it is also being seen to be done. Associations exist for the benefit of their members at the exclusion of others. Therefore, they may not generally be seen as an acceptable independent body to review complaints. Examples of independent complaints bodies include:

- ✓ an independent referee with conciliation powers or
- ✓ an industry ombudsman with power to make binding decisions or
- ✓ a committee composed of an independent chair, one or more industry members and consumers.

## COMMENTARY

- Consultation identified a general desire for an a more integrated complaints mechanism that accounts for the entire system and provides and avenue for independent review. Specifically, the complaints mechanism requires the capacity to manage complaints about:
  - the MSB
  - RMABs
  - Mediators
- Given the recommended expansion of the coverage (see previous commentary and also the draft text in the Introduction to the Code – Coverage) it is suggested that the complaints mechanism also account for all signatories to the Code including, but not limited to:
  - The Code Administration Committee (CAC)
  - Recognised Training Providers (RTPs)
  - Recognised Accreditation Providers (RAPs)
  - Recognised Service Providers (RSPs)
- As many mediators and specialist dispute resolution practitioners practice under more than one scheme, the complaints mechanism needs to consider and make explicit its relationship to co-existing schemes. E.g. currently, NMAS accredited practitioners who are also FDRPs are subject to two complaints systems, and the issue was raised that it is not always clear to consumers or accreditation providers which complaints scheme was appropriate in a given circumstance.
- There is confusion about the role of confidentiality in making complaints about mediators in relation to their conduct within the mediation. While this is a complex legal area, there are other professionals that have grappled with the issue (e.g. lawyers, psychologists, medical providers etc) to ensure that complainants are not prevented from raising legitimate complaints.



# ADMINISTRATION OF THE CODE

## COMPLIANCE – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#)')

### In-house Compliance Systems

[The code administration committee needs to ensure that each participant has some form of in-house system to ensure compliance with the Code. It can also assist compliance at this level with advice and training. In Australia, code compliance manuals are being developed for codes based on the Australian standard on compliance management systems (AS ISO 19600:2015) which may be revised from time to time.]

### Sanctions for non-compliance

Commercially significant sanctions will be necessary to achieve credibility with and compliance by participants, and also engender stakeholder confidence in the industry code.

Examples of commercially significant sanctions may include:

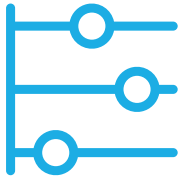
- supplying an item free or any meaningful remedy to the aggrieved party when a
- code rule is broken
- censures and warnings
- corrective advertising
- fines
- expulsion as a signatory to the Code
- expulsion from the industry association.

Sanctions should reflect the nature, seriousness and frequency of the breach.

## COMMENTARY

- **Consultation revealed a significant lack of understanding about the role of the MSB in relation to oversight and support. Even so, when accounting for these inaccuracies, there was a general trend towards the MSB taking a more active approach to oversight and support. This trend was consistent across both individuals (mediators) and organisations (including training, accreditation and dispute resolution service providers), with no significant differences found between the two groups.**
- **Consultation revealed an appetite for a move towards a perceived increase in MSB intervention, with most suggesting either Proactive or Assisted self-Regulation in relation to oversight or support.**
- **To accommodate this finding, it is strongly suggested that the MSB, CAC or delegate, develop a Code specific, risk-based compliance framework based on the Australian standards. Taking a risk-based approach is likely to strike an appropriate balance between**

accountability and autonomy (see The Better Regulatory Practice Framework<sup>xxix</sup>, Figure 2 p 14, as an example).



# ADMINISTRATION OF THE CODE

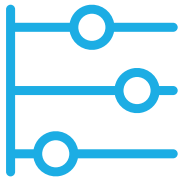
## CONSUMER AWARENESS – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#))

[An effective code should incorporate a strategy that will raise consumers' awareness of the Code and its contents, including its complaints handling provisions. A published list of code signatories may help raise code awareness.]

## COMMENTARY

- **The Code of Ethics has been specifically designed for the purpose of raising consumer awareness regarding the ethics and responsibilities of mediators and specialist practitioners accredited under the Code.**
- **The Professional Attributes may also serve as a useful resource for raising awareness of the qualities common to those accredited under the Code.**
- **Consultation revealed some desire from the community for the MSB to take a more proactive role in raising consumer awareness. However, consideration will need to be given to Recommendation 1 to ensure that consumer awareness campaigns accurately reflect the status of mediators i.e. consistent messaging about profession vs professionalism.**



# ADMINISTRATION OF THE CODE

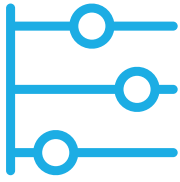
## INDUSTRY AWARENESS – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#)')

[In many cases a code fails to operate effectively, not because its principles and procedures are inadequate, but because employees or industry members are either unaware of the Code or fail to follow it in day-to-day dealings. It is therefore essential that the Code contain a provision requiring employees and agents to be instructed in its principles and procedures. This is an ongoing task because of staff turnover in firms and should be overseen by the code administration body.]

## COMMENTARY

- **Provision is included in the Training and Accreditation requirements about ensuring mediators and specialist practitioners are familiar with the Code and agree to comply with the Code of Ethics.**
- **The Mediator Standards Board (MSB), with the assistance of an external facilitator, will consider the recommendations from the NMAS Review and finalise the draft of the Code (NMAS) to be adopted. In sharing the findings and recommendations, the MSB will raise awareness across the industry.**
- **As signatories, Recognised Mediation Services and Specialist Providers of Dispute Resolution Services are required to enable their practitioners to meet the accreditation requirements under the draft Code. As such the services carrying the quality mark ('the tick') must ensure their staff are familiar with the Code.**
- **The practical implications for this provision is also highly dependent on decisions made about the scope of the Code.**



# ADMINISTRATION OF THE CODE

## DATA COLLECTION – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#) from ACCC')

Effective codes require collection of data about the origins and causes of complaints, and the identification of systemic and recurring problems which industry members need to address.

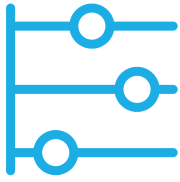
The type of data collected should include details of:

- complainant
- business complained about
- the type and frequency of complaint
- how the complaint was resolved
- time taken to deal with complaint
- type of sanction(s) imposed.

The data should be able to be analysed to produce reports that highlight any systemic issues and areas for potential improvement. These reports provide important feedback for management, staff and industry to continually improve compliance with the Act

## COMMENTARY

- **It is strongly suggested that an industry-based data collection strategy, with common protocols be embedded into the compliance and reporting requirements of the Code.**
- **The data collection strategy must be developed in collaboration with experts to ensure the data collected is:**
  - **high quality (high reliability and validity)**
  - **includes scope for analysis extending beyond simple frequencies or descriptive statistics**
  - **accommodates both exploratory and confirmatory analysis**
  - **meets relevant legislative and/or ethical guidelines**
- **In adopting such an approach, the MSB can establish its footprint as an industry leader in data-driven decision-making.**
- **The data collected as part of this review may serve as a useful prompt and/or baseline for evaluating the impact of the review.**



# ADMINISTRATION OF THE CODE

## MONITORING – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#)')

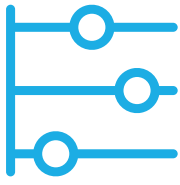
[The code administration committee should regularly monitor codes for compliance to ensure the desired outcomes for all stakeholders and the community at large.

The committee should have a system for monitoring compliance which may include evaluating data collected regularly to identify and remedy problems as well as to identify ways of increasing compliance.]

## COMMENTARY

- **There was concern from some that the current infrastructure was not sufficient to adequately administer the current NMAS and, as such, it was difficult for the NMAS to meet its full potential in promoting 'quality, consistency and accountability of NMAS accredited mediators'<sup>xxx</sup>. This was particularly raised in relation to the small staff numbers and the use of volunteers across the various NMAS bodies.**
- **In adopting strategies such as the formation of a code administration committee (CAC), the development of an integrated complaints system and protocols for a coordinated approach to monitoring compliance, it may address some of the concerns related to the above.**
- **See also commentary above in Part 2 relating to:**
  - **Code Administration Committee**
  - **Complaints Handling**
  - **Compliance**
  - **Data Collection**





# ADMINISTRATION OF THE CODE

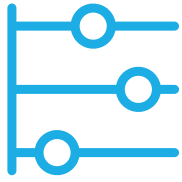
## ACCOUNTABILITY – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#)')

[The committee should also produce annual reports on the operation of the Code, allowing for periodic assessment of its effectiveness. These reports should be readily available to all stakeholders and interested parties.]

## COMMENTARY

- **This is already standard practice for the MSB.**
- **No feedback was received in relation to this.**



# ADMINISTRATION OF THE CODE

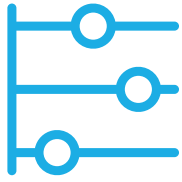
## REVIEW – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#)')

[The Code should provide for regular reviews to ensure that the standards incorporated are meeting identified objectives and current community expectations and that it is working effectively.]

## COMMENTARY

- **A general review mechanism has been embedded in the NMAS since its inception.**
- **Following on from the the NMAS Review 2020-2022, future reviews might specifically consider:**
  - **Domestic**
    - **Conciliation and particularly the development of conciliator standards**
    - **The flow-on effects of the Code's Training and Accreditation Framework (TAF), including multi-level standards and recognition of specialist expertise**
    - **The impact of recognising the provision of information, guidance and advice as an advanced/specialist practitioner skill**
    - **Engagement with experts in the field of complex competencies e.g. [The Measurement Specialist Group – Assessment Research and Centre, University of Melbourne](#)<sup>xxxii</sup>**
  - **International trends**
    - **The impact of the Singapore Convention**
    - **SIMI's focus on the professionalisation of mediation and research into mediator competencies<sup>xxxii</sup>**



# ADMINISTRATION OF THE CODE

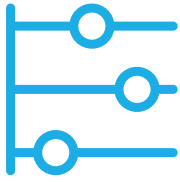
## COMPETITION IMPLICATIONS – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#)')

[Codes should not be written in an anti-competitive way. When a code includes potential anti-competitive provisions, authorisation should be obtained from the ACCC. For more information on authorisation, please refer to the ACCC website [www.accc.gov.au](http://www.accc.gov.au).]

## COMMENTARY

- **Consultation revealed that mediation is not a financially viable career option for a large proportion of practitioners, with many earning minimum wage or less<sup>xxiii</sup>. Complicating matters further, there does**
- **Mediators expressed a desire for further information and support in relation to financial viability. However, in the absence of professional associations, there is a risk that they may inadvertently engage in anti-competitive behaviour should they attempt to work collaboratively.**
- **In adopting the ACCC guidelines, the draft Code contains scope to identify potentially anti-competitive provisions or direct practitioners to information about anti-competitive behaviour.**



# ADMINISTRATION OF THE CODE

## PERFORMANCE INDICATORS – ACCC GUIDANCE

(from '[Guidelines for developing effective voluntary industry codes of conduct](#)')

[Performance indicators should be developed with reference to these criteria and implemented as a means of measuring the Code's effectiveness.]

The measurements may either be qualitative or quantitative but should be objective so that another person in similar circumstances would obtain the same measurement.]

## COMMENTARY

- It is suggested that these are linked to the strategic plans developed in response to Recommendation 1.
- It is strongly suggested that any performance indicators be developed in collaboration with experts to ensure the data collected extends beyond simple frequencies or descriptive statistics. In adopting such an approach, the MSB has the opportunity to actively model and foster a culture of evidence-based or data-driven decision-making within the industry.
- The data collected as part of this review may serve as a useful prompt and/or baseline for monitoring changes in performance over time.



# THE CODE – APPENDICES



# DIVERSITY & INCLUSION

*This document outlines the eight enablers that underpin the Code’s contextualised and intersectional approach to diversity and inclusion. They inform the way that signatories work towards realising the objectives of the Code.*

## THE EIGHT ENABLERS

(Adapted from ['Intersectionality Resource Guide and Toolkit'](#)<sup>xxxiv</sup>)

### 1. Reflexivity

Examine your own unconscious biases, beliefs, judgements and practices, as well as those of your organisation, and how these may influence how you work and engage with others. Don’t take your assumptions for granted.

- Do I critically reflect on how my biases, attitudes and beliefs influence my opinions and actions?*
- How does my privilege directly or indirectly disadvantage others?*
- What can I do to address this?*

### 2. Dignity, choice and autonomy

Respect and uphold the dignity, choice and autonomy of all people. This cannot be assumed on behalf of others and decision-making cannot be substituted.

- Who has independence and who doesn’t?*
- Who shares their perspectives and who doesn’t?*
- Who has full control over how they live their life and who doesn’t?*

### 3. Accessibility and universal design

Take a universal design approach, ensuring accessibility and reasonable accommodation.\*

- Have you asked people what they need to participate?*
- Have you removed physical, transportation, information and communication barriers or provided reasonable alternatives?*
- Have you addressed attitudinal, environmental and institutional barriers?*

### 4. Diverse knowledges

Prioritise and learn from people with diverse forms of knowledge who are typically excluded from ‘expert’ roles. There is a relationship between power and knowledge production and design.

- How do we know what we think we know?*
- Who told us?*

## APPENDIX 1 – DIVERSITY & INCLUSION ENABLERS

- Who has not been consulted?*

### 5. Intersecting identities

Consider how diverse identities interact to create unique social effects that vary according to time and place. Identities are not singular and distinct, nor are they additive.

- What are the intersecting identities of the people we engage with?*
- Who is missing?*

### 6. Relational power

Be aware of and challenge relational power, including our own. People may experience power in one context/time and oppression in another.

- Who holds power and in what circumstances?*
- Who makes decisions?*
- How are they accountable?*

### 7. Time and space

Recognise the influence of time and space. Nothing is static, privilege and disadvantage are fluid and influenced by our social positioning and location.

- Does privilege look different in this location?*
- Across different generations?*
- Does discrimination look different in this location?*
- Across different generations?*

### 8. Transformative and rights-based

Promote human rights and address inequalities by transforming social structures and changing the way resources and relationships are produced and allocated.

- Are we changing the way that resources are produced and/or distributed?*
- Are we changing the way relationships are produced and/or distributed?*

\* Notes:

- Reasonable accommodation means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.
- Universal design means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design. Universal design shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

## APPENDIX 1 – DIVERSITY & INCLUSION ENABLERS

### COMMENTARY

- Analysis of NMAS Review Survey responses have provided evidence that Cultural Expertise is one of the most sophisticated skills.
- Considerations for addressing diversity and inclusion (D&I) concerns include:
  - Embedding D&I considerations into the draft Code.
  - Guidelines to support D&I
  - SPDRS model is flexible enough to account for cultural/diverse practices. Allows for recognition of specialist provider and practitioners, including D&I specialisation
- Inclusion and accessibility standards expectations in the complaints mechanism should be adopted more broadly across the Code.
- Resources must not be developed in-house – while this is often done with good intentions, it is common for such resources to be tokenistic, based on stereotypes and deficit-focused – it is vital that this stop. Instead, a taskforce led by people with diverse knowledge must work collaboratively with organisations e.g Human Rights commission or similar, to develop proper D&I modules for training and training providers.
- There is an increasing awareness of the importance of D&I across all industries. Mediation is no different and consultation revealed a wide range of concerns related to D&I, including:
  - Diversity on the MSB
  - Lack of representation of Board Members across different approaches and contexts e.g. large proportion of lawyers
  - Lack of diverse of knowledges<sup>xxxv</sup> and experience of members
- Currently the D&I considerations in the NMAS are limited to CALD:
  - E.g. limited to cross-cultural issues. I.e. missing ‘cultural competence’
  - Missing competencies in relation to disability, LGBTQIA+, etc.
  - CALD has been reframed as ‘THE EIGHT ENABLERS’, which potentially addresses above. (See Appendix 1)
- Accessibility
  - Training and Assessment, complaints, etc. currently limited to English (written)
  - See above on ‘diverse knowledge’ which has been reframed to also accommodate this issue – this also incorporates the principles of Universal Design.



## APPENDIX 2 – THE TRAINING AND ACCREDITATION FRAMEWORK

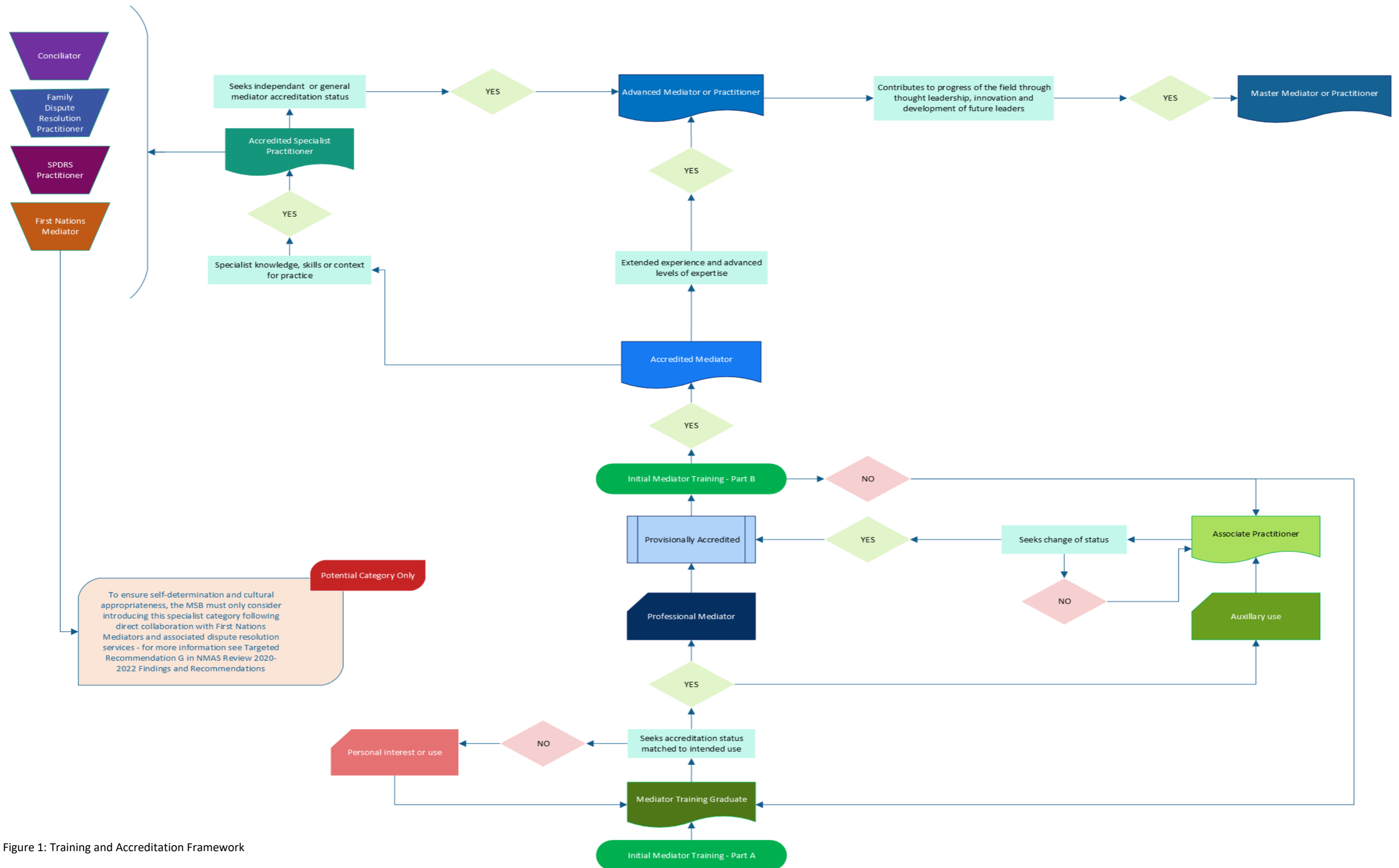


Figure 1: Training and Accreditation Framework



# CODE OF ETHICS

***Mediators and specialist practitioners accredited under the Code value the trust placed in them to help people manage differences, negotiate difficult situations, and resolve their disputes. As part of their commitment to protecting and upholding public and institutional confidence in their profession, accredited mediators and specialist practitioners commit to:***

- 1 Providing accessible and inclusive services
- 2 Supporting self-determination and informed decision-making
- 3 Facilitating an even-handed, safe and ethical process, including:
  - a. Protecting against misuse or abuse of the process
  - b. Declaring conflicts of interest and avoiding the use of information for personal gain
- 4 Representing their services and competence honestly and transparently, with specific attention to information relating to:
  - a. The approach they will take or the type of NDR process to be used
  - b. Any fees or charges
  - c. Their competence or experience generally, or in connection to a specialist context or area of expertise
  - d. Any inducements or affiliations
- 5 Meeting their legal, regulatory and professional obligations, including:
  - a. Maintaining confidentiality and data protection
  - b. Monitoring and maintaining compliance with their obligations under any legislative or regulatory frameworks
  - c. Monitoring and maintaining compliance with any co-existing professional or specialist obligations related to their practice
  - d. Meeting their continuous professional development requirements
  - e. Interacting professionally and courteously with clients, colleagues and members of the public
- 6 Providing information, guidance and advice only when competent and authorised to do so, and specifically, only when:
  - a. They possess the requisite level of knowledge, skills or expertise
  - b. Authorised by the parties
  - c. Authorised by the service provider or dispute resolution context
  - d. Authorised under their level of accreditation, including the requirement to hold professional indemnity insurance for practitioners who provide information, guidance and advice
- 7 Providing a feedback and complaints mechanism
  - a. Insert link to the feedback mechanism
  - b. Insert link to the complaints mechanism

For more information about the Code or FAQs related to the Code of Ethics, including examples of prohibited practices, see: the MSB website link



# PROFESSIONAL ATTRIBUTES



## DOMAIN 1 – PROFESSIONAL KNOWLEDGE

- ☑ Seven attributes
- ☑ Common to all who carry accreditation under the Code, irrespective of their level of accreditation, experience, area of specialisation or context within in which they operate



## DOMAIN 2 – PROFESSIONAL SKILLS

- ☑ Seven attributes
- ☑ Common to all who carry accreditation under the Code, irrespective of their level of accreditation, experience, area of specialisation or context within in which they operate

### 1. PROFESSIONAL KNOWLEDGE

Mediators and specialist practitioners accredited under the Code draw on a body of knowledge and research to inform their practice. The professional knowledge domain is comprised of seven (7) attributes. This means the public can feel confident that a mediator or specialist practitioner accredited under the Code:

- 1.1. Understands conflict and the way people behave when they are in it
- 1.2. Understands the factors that play a role in conflict and dispute resolution
- 1.3. Knows the principles and models for mediation and the roles or functions of the people involved
- 1.4. Knows a range of strategies or techniques for resolving conflict and when to use them
- 1.5. Understands the requirement for fairness, safety and protecting against misuse of the process
- 1.6. Understands the ethical, professional and legal obligations of a mediator
- 1.7. Understands the scope and types of guidance or advice offered by mediators

### 2. PROFESSIONAL SKILLS

Mediators and specialist practitioners accredited under the Code facilitate non-determinative dispute resolution processes designed to promote resolution within a range of contexts. This is where mediators put their professional knowledge to work. The professional skills domain is comprised of seven (7) attributes. This means the public can feel confident that a mediator or specialist practitioner accredited under the Code:

- 2.1. Conducts an initial assessment or triage
- 2.2. Supports self-determination and informed decision-making
- 2.3. Manages the mediation process
- 2.4. Supports parties to participate in the process
- 2.5. Manages risks to fairness, safety, or abuse of the process
- 2.6. Meets their ethical, professional and legal obligations
- 2.7. Provides information, guidance and advice as appropriate to the process

## APPENDIX 4 – PROFESSIONAL ATTRIBUTES



### DOMAIN 3 – PROFESSIONAL ETHICS & RESPONSIBILITIES

- Seven attributes
- Common to all who carry accreditation under the Code, irrespective of their level of accreditation, experience, area of specialisation or context within in which they operate



### DOMAIN 4 – PROFESSIONAL DEVELOPMENT

- Three attributes
- Common to all who carry accreditation under the Code, irrespective of their level of accreditation, experience, area of specialisation or context within in which they operate

### 3. PROFESSIONAL ETHICS & RESPONSIBILITIES

Mediators and specialist practitioners accredited under the Code engage ethically and professionally with clients and colleagues. In doing so, they foster public and institutional trust in the field. The professional ethics and responsibilities domain is comprised of seven (7) attributes. This means the public can feel confident that a mediator or specialist practitioner accredited under the Code:

- 3.1. Provides accessible and inclusive services
- 3.2. Promotes self-determination and informed decision-making
- 3.3. Facilitates an even-handed, safe and ethical process
- 3.4. Represents their services and competence honestly and transparently
- 3.5. Meets their legal, regulatory and professional obligations
- 3.6. Provides guidance and advice only when competent and authorised to do so
- 3.7. Provides a feedback and complaints mechanism

### 4. PROFESSIONAL DEVELOPMENT

Mediators and specialist practitioners accredited under the Code are reflective practitioners who value the opportunity to develop their expertise, support the development of others and contribute to the field. The professional development domain is comprised of three (3) attributes. This means the public can feel confident that a a mediator or specialist practitioner accredited under the Code:

- 4.1. Engages in reflective practice
- 4.2. Engages in professional learning
- 4.3. Contributes to the field

# PROFESSIONAL PRACTICE STANDARDS

## LEVELS AND TYPES OF ACCREDITATION

LEVEL 4	<p><b>Specialist Practitioner Profile</b></p> <p>Specialist practitioners bring specialist or technical expertise to assist parties find mutually agreed solutions within a specific NDR context. In doing so they take a uniquely party-centric approach and meet the requirements of the Specialist practitioner equivalent of the Advanced Mediator Standard.</p> <p>Specialist practitioners typically operate in NDR services governed by legislative frameworks, or within recognised specialist providers of dispute resolution services (SPDRS), and this is the forum within which these practitioners obtain or are recognised for their specialist expertise. <b>Practitioners that potentially fall within this standard include conciliators, family dispute resolution practitioners (FDRPs) and SPDRS practitioners. (MSB to adjust depending on the Code’s coverage)</b></p> <p>Specialist practitioners draw on their expertise to provide information, guidance or advice matched to their area of expertise and the NDR context in which they operate. At the most sophisticated level, these practitioners draw on specialist cultural, psychological or social expertise to ensure the process and outcomes account for those who are at risk of being disproportionately or adversely affected.</p> <p>Specialist practitioners must meet a range of requirements in order to obtain and renew their accreditation including the Code’s ongoing practice and CPD requirements and any co-existing requirements connected to their NDR context or their specialist expertise.</p>	<p><b>Advanced Mediator Profile</b></p> <p>Advanced mediators think strategically about conflict and the ways in which they can assist people to prevent, deescalate or find high-quality, mutually beneficial resolutions to their disputes.</p> <p>They think critically about the factors that play a role in the way that participants might conceptualise and experience conflict or engage with various forms of NDR. Drawing on this knowledge they proactively develop and curate their practice in a way that leverages their advanced expertise or technical skills and adds value beyond the use of a given NDR process. At its most sophisticated this includes working collaboratively with parties, support people and other professionals to prioritise a highly party-centric approach.</p> <p>It is within this context that advanced mediators discern the circumstances in which providing information, guidance or advice may enhance an NDR process or optimise participants’ experience or potential outcomes. This is particularly so where it promotes self-determination and informed decision-making, including the consideration of alternative strategies, NDR processes or practitioners.</p> <p>They draw on their experience to balance or reconcile co-existing priorities and obligations. This informs their ability to differentiate risk management strategies and take action in a manner that is both holistic and congruent with the context or scenario.</p> <p>Advanced mediators must meet a range of requirements in order to obtain or renew their accreditation including ongoing practice and CPD requirements to maintain their knowledge and skills.</p>	<p><b>Master Mediator &amp; Practitioner Profile</b></p> <p>Master mediators and practitioners are focused on innovation and thought leadership related to a specific area or issue connected to NDR. They draw on their experience as specialist practitioners or advanced mediators to inform the rigorous and creative processes required to generate new hypotheses or evidence-based insights.</p> <p>Master mediators and practitioners are active contributors and take steps to share and disseminate their work for the benefit of future leaders and generations of practitioners. They also appreciate the importance of high-quality coaching and mentoring, and in doing so may strive to assist others to achieve levels of practice beyond those of the master mediator or practitioner.</p> <p>Master mediators and practitioners must meet a range of requirements in order to obtain or renew their accreditation, including ongoing practice and CPD requirements to maintain their knowledge and skills.</p>
	<p><b>Accredited Mediator Profile</b></p>		
	LEVEL 3	<p>Accredited mediators see the mediation process holistically. They understand the factors that shape the way that parties might participate and can draw on established theoretical principles to make sense of, predict, or plan for accommodating this within a given context. Drawing on their knowledge and experience, they work with parties, support people and other professionals to support parties’ participation, manage the mediation process and account for risks to even-handedness, safety and the misuse or abuse of the process. Accredited mediators adopt an approach that is consistent with the principles of facilitative mediation and do not provide information, guidance or advice beyond matters relating to the facilitative mediation process or the types of options it might generate. However, accredited mediators, working towards advanced mediator status may offer information, guidance and advice when under the supervision of an advanced mediator and in accordance with the accredited mediator’s obligations under the Code of Ethics. Accredited mediators must meet a range of requirements in order to obtain or renew their accreditation including ongoing practice and CPD requirements to maintain their knowledge and skills.</p>	
LEVEL 2	<p><b>Provisionally Accredited Mediator &amp; Specialist Practitioner Profile</b></p> <p>Provisionally accredited mediators have met the Graduate Standard and are working towards meeting the Accredited Mediator Standard. Their main focus is on consolidating their skills as facilitative mediators. In doing so, they are developing the experience upon which they will be expected to draw as an accredited mediator. Provisionally accredited mediators must meet the practice and CPD requirements in order to apply for accredited mediator status. Specialist practitioners may apply for provisional accreditation status while working within their specialist context. This provides a recognised pathway for these practitioners to seek specialist practitioner status.</p>	<p><b>Associate Practitioner Profile</b></p> <p>Associate practitioners are professionals who have met the Graduate Standard and who see the value of incorporating their understanding of conflict resolution and mediation into their work. This may include drawing on the principles learned to prevent or deescalate conflict within their environment, working alongside accredited mediators to assist people resolve conflict or maximising their own participation should the need arise. Associate practitioners must meet a range of requirements in order to obtain or renew their accreditation including ongoing practice and CPD requirements to maintain their knowledge and skills.</p>	
	<p><b>Graduate Profile</b></p>		
LEVEL 1	<p>Graduates understand the characteristics of conflict and are aware of the factors that influence the potential for people to come to mutually agreeable solutions. They understand the principles and models of mediation and specifically the roles and functions of people within a facilitative mediation context. Graduates are developing a repertoire of strategies and techniques for resolving disputes and are beginning to understand how to select strategies to achieve a specific goal. They have a growing appreciation for the responsibilities of an accredited mediator in relation to the way the process is conducted and the way they conduct themselves more broadly. Graduates understand that the scope for facilitative mediators to provide information, guidance or advice is limited to matters relating to the facilitative mediation process, including confirming that no other types of information, guidance or advice will be provided. Graduates have an emerging capacity to apply this knowledge within a simulated facilitative mediation, including taking on the role of mediator or co-mediator. Within this context, graduates typically follow the guidelines or protocols provided, only making minor adjustments to accommodate common or anticipated scenarios.</p>		

APPENDIX 5 – PROFESSIONAL PRACTICE STANDARDS

STANDARDS FOR ASSESSING LEVELS AND TYPES OF ACCREDITATION

Knowledge		Indicative level of quality or complexity required			
ATTRIBUTES	FOCUS AREAS	GRADUATE STANDARD	ACCREDITED MEDIATOR STANDARD	ADVANCED MEDIATOR STANDARD	MASTER MEDIATOR STANDARD
<b>ATTRIBUTE 1.1</b> Understands conflict and the way people behave when they are in it	<b>FOCUS AREA 1.1.1</b> Understands the characteristics of conflict	GRADUATE STANDARD 1.1.1.1 Graduates can list common types and sources of conflict that might arise between individuals or within groups. They can also compare conflict's constructive and unconstructive characteristics to identify the elements that tend to form the basis of disputes.  <i>ILLUSTRATION 1.1.1.1</i>  <i>Constructive conflict may feature collaboration and problem solving to generate new ideas or important change. In contrast, unconstructive conflict may dehumanise people or attribute motives to cast the 'other' as inherently bad or lesser.</i>	ACCREDITED STANDARD 1.1.1.2 SEE GRADUATE STANDARD 1.1.1.1	ADVANCED STANDARD 1.1.1.3 Advanced mediators can analyse the patterns of conflict to inform a strategy for diagnosing conflict and formulating priorities for preventing escalation or promoting resolution.	MASTER STANDARD 1.1.1.4 Master mediators can synthesise interdisciplinary knowledge to generate new insights or original ideas on the characteristics of conflict.
	<b>FOCUS AREA 1.1.2</b> Understands the characteristics of people in conflict	GRADUATE STANDARD 1.1.2.1 Graduates can list the characteristics of people in conflict and situate them within an existing framework or structure.  <i>ILLUSTRATION 1.1.2.1</i>  <i>Frameworks include the Five Core Concerns, the satisfaction triangle, Thomas Kilmann conflict modes, etc.</i>	ACCREDITED STANDARD 1.1.2.2 Mediators can analyse how the characteristics of people in conflict may vary to explain or predict a person's behaviour or decision-making in a given conflict scenario/context.	ADVANCED STANDARD 1.1.2.3 SEE ACCREDITED STANDARD 1.1.2.2	MASTER STANDARD 1.1.2.4 Master mediators can synthesise interdisciplinary knowledge to generate new insights into, or unique approaches to working with, the characteristics of people in conflict.
<b>ATTRIBUTE 1.2</b> Understands the factors that play a role in conflict and dispute resolution	<b>FOCUS AREA 1.2.1</b> Understands the role of self-determination in conflict and dispute resolution	GRADUATE STANDARD 1.2.1.1 Graduates can explain the role of self-determination in conflict and dispute resolution, including the circumstances in which the context or situation may be a factor in shaping that role.	ACCREDITED STANDARD 1.2.1.2 Mediators can analyse how mediator practice might shape participants' perceptions of self-determination, irrespective of the dispute resolution context or scenario  <i>ILLUSTRATION 1.2.1.2</i>  <i>Where a mediator may assist parties in identifying areas where they may have more choices than they realise or are immediately apparent.</i>	ADVANCED STANDARD 1.2.1.3 SEE ACCREDITED STANDARD 1.2.1.2	MASTER STANDARD 1.2.1.4 Master mediators can reconcile the principles of self-determination with the inherent requirements of mandatory or prescribed dispute resolution to generate new insights or original ideas about the validity of self-determination as a defining principle of NDR.
	<b>FOCUS AREA 1.2.2</b>	GRADUATE STANDARD 1.2.2.1 Graduates can distinguish between typical and atypical manifestations of emotions in conflict,	ACCREDITED STANDARD 1.2.2.2 Mediators can analyse how personal preferences and capacities for navigating	ADVANCED STANDARD 1.2.2.3 SEE ACCREDITED STANDARD 1.2.2.2	MASTER STANDARD 1.2.2.4 Master mediators can synthesise interdisciplinary knowledge to generate new insights into, or

**APPENDIX 5 – PROFESSIONAL PRACTICE STANDARDS**

<p><b>Understands the role of emotions in conflict and dispute resolution</b></p>	<p>including the extent to which they may need to account for cultural, psychological or other contextual differences.</p> <p><i>ILLUSTRATION 1.2.2.1</i></p> <p><i>A typical manifestation of emotion in one culture may be atypical in another culture, or the presence of trauma may trigger an unanticipated emotional response.</i></p>	<p>emotions might influence the extent to which they play a constructive role in dispute resolution</p> <p><i>ILLUSTRATION 1.2.2.2</i></p> <p><i>A practitioner may need to adjust their practice for participants who are uncomfortable or unable to incorporate emotions; alternatively, some practitioners may need to work on self-regulation in order to stay calm during high emotion.</i></p>		<p>original approaches to navigating, the role of emotions in conflict or dispute resolution.</p>
<p><b>FOCUS AREA 1.2.3</b></p> <p><b>Understands the role of empathy in conflict and dispute resolution</b></p>	<p>GRADUATE STANDARD 1.2.3.1</p> <p>Graduates can distinguish the different roles that empathy may play in dispute resolution, including the practitioner showing empathy for the parties compared to the practitioner assisting the parties to show empathy for each other.</p>	<p>ACCREDITED STANDARD 1.2.3.2</p> <p>SEE GRADUATE STANDARD 1.2.3.1</p>	<p>ADVANCED STANDARD 1.2.3.3</p> <p>Advanced mediators can critique the role of empathy with reference to a practitioner’s ethical obligations in connection with impartiality and bias (actual or perceived).</p>	<p>MASTER STANDARD 1.2.3.4</p> <p>Master mediators can synthesise interdisciplinary knowledge to generate new insights or original ideas on the role of empathy in conflict or dispute resolution</p>
<p><b>FOCUS AREA 1.2.4</b></p> <p><b>Understands the role of perspective-taking in conflict and dispute resolution</b></p>	<p>GRADUATE STANDARD 1.2.4.1</p> <p>Graduates can describe the role of perspective-taking in conflict and dispute resolution.</p>	<p>ACCREDITED STANDARD 1.2.4.2</p> <p>Mediators can classify the characteristics of perspective-taking with reference to established theory or frameworks</p> <p><i>ILLUSTRATION 1.2.4.2</i></p> <p><i>Characteristics of perspective-taking include mentalising, theory of mind, etc.</i></p>	<p>ADVANCED STANDARD 1.2.4.3</p> <p>Advanced mediators can analyse the relationship between perspective-taking behaviours and the context of a dispute to predict or explain the quality of dispute resolution outcomes in a variety of scenarios.</p>	<p>MASTER STANDARD 1.2.4.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to generate new insights on, or original approaches to, working with, perspective taking in conflict and dispute resolution.</p>
<p><b>FOCUS AREA 1.2.5</b></p> <p><b>Understands the dynamics of power and violence and in conflict and dispute resolution</b></p>	<p>GRADUATE STANDARD 1.2.5.1</p> <p>Graduates can compare overt and covert manifestations of power and/or violence in conflict, including how this plays out in dispute resolution.</p> <p><i>ILLUSTRATION 1.2.5.1</i></p> <p><i>Manifestations of power may include various forms of manipulation or intimidation such as diversion, trivialising, impression management, micro-aggressions, threats etc.</i></p>	<p>ACCREDITED STANDARD 1.2.5.2</p> <p>Mediators can design strategies or plans to prevent or manage both overt and covert manifestations of power and/or violence within differing dispute resolution contexts or scenarios.</p>	<p>ADVANCED STANDARD 1.2.5.3</p> <p>SEE ACCREDITED STANDARD 1.2.5.2</p>	<p>MASTER STANDARD 1.2.5.4</p> <p>Master mediators can reconcile power imbalance, cycles of violence and the role of the mediator to formulate new insights or approaches to working with vulnerable people involved in, or connected to, dispute resolution.</p>
<p><b>FOCUS AREA 1.2.6</b></p> <p><b>Understands that diversity and inclusion influence experiences of conflict and dispute resolution</b></p>	<p>GRADUATE STANDARD 1.2.6.1</p> <p>Graduates can identify ways in which experiences of conflict or dispute resolution may differ for those who vary in some way from the prevailing cultural or societal norms.</p> <p><i>ILLUSTRATION 1.2.6.1</i></p> <p><i>How might the experiences of First Nations people, LGBTQIA+ people, refugees, autistic people, people experiencing mental illness, etc.,</i></p>	<p>ACCREDITED STANDARD 1.2.6.2</p> <p>Mediators can compare the direct, indirect or systemic factors that may impact diverse people’s accessibility or inclusion as dispute resolution practitioners or potential users of dispute resolution services.</p>	<p>ADVANCED STANDARD 1.2.6.3</p> <p>Advanced mediators can apply established frameworks or principles to evaluate the extent to which an existing dispute resolution process/service is accessible and inclusive of both diverse dispute resolution practitioners and potential users of dispute resolution processes/services.</p> <p><i>ILLUSTRATION 1.2.6.3</i></p>	<p>MASTER STANDARD 1.2.6.4</p> <p>Master mediators can use an evidenced-based framework or set of principles to redesign or create original dispute resolution processes or services that are accessible and inclusive for diverse practitioners or diverse users of dispute resolution.</p>

APPENDIX 5 – PROFESSIONAL PRACTICE STANDARDS

		differ from people who are cis-gendered, heterosexual, abled, middle-class and/or white?		Apply the principles of universal design to evaluate a current dispute resolution service offering.	
<b>ATTRIBUTE 1.3</b> <b>Knows the principles and models for mediation and the roles/functions of the people involved</b>	<b>FOCUS AREA 1.3.1</b> <b>Knows the principles of mediation, including what makes a matter suitable for a given process</b>	<b>GRADUATE STANDARD 1.3.1.1</b> Graduates can compare the principles of facilitative mediation with the principles of other forms of non-determinative dispute resolution (NDR).  <i>ILLUSTRATION 1.3.1.1</i>  Other forms of NDR include other styles of mediation, negotiation, conciliation, restorative practice, hybrid processes, etc.	<b>ACCREDITED STANDARD 1.3.1.2</b> SEE GRADUATE STANDARD 1.3.1.1	<b>ADVANCED STANDARD 1.3.1.3</b> Advanced mediators can differentiate between different forms of non-determinative dispute resolution (NDR) and their underlying principles to justify an on-balance judgement about the most suitable form of dispute resolution for a given scenario or context.	<b>MASTER STANDARD 1.3.1.4</b> Master mediators can synthesise cross-disciplinary knowledge to revise or generate new principles for distinguishing facilitative mediation and/or other forms of NDR.
	<b>FOCUS AREA 1.3.2</b> <b>Knows the mediation process</b>	<b>GRADUATE STANDARD 1.3.2.1</b> Graduates can explain the elements or features that distinguish the facilitative mediation process from other forms of mediation or NDR.	<b>ACCREDITED STANDARD 1.3.2.2</b> SEE GRADUATE STANDARD 1.3.2.1	<b>ADVANCED STANDARD 1.3.2.3</b> Advanced mediators can differentiate between defining and non-defining elements of a given NDR process to inform the scope for adjustments based on participants needs or goals.  <i>ILLUSTRATION 1.3.2.3</i>  Facilitative mediation may be conducted face-to-face or online [non-defining] whereas it must focus on assisting parties to find solutions that meet their underlying needs or interests [defining].	<b>MASTER STANDARD 1.3.2.4</b> Master mediators can synthesise cross-disciplinary knowledge to generate new or improved mediation or NDR processes.
	<b>FOCUS AREA 1.3.3</b> <b>Knows the role of the mediator</b>	<b>GRADUATE STANDARD 1.3.3.1</b> Graduates can compare the role of the facilitative mediator with the role of practitioners in other forms of mediation or non-determinative dispute resolution.	<b>ACCREDITED STANDARD 1.3.3.2</b> SEE GRADUATE STANDARD 1.3.3.1	<b>ADVANCED STANDARD 1.3.3.3</b> Advanced mediators can differentiate between defining and non-defining elements of the practitioner’s role in a given non-determinative process to inform adjustments or modifications to accommodate factors such as the parties’ goals or context of the dispute.  <i>ILLUSTRATION 1.3.3.3</i>  Facilitative mediation may include scope for lawyers to provide advice [non-defining] whereas it does not allow for the mediator to provide legal advice [defining].	<b>MASTER STANDARD 1.3.3.4</b> Master mediators can synthesise cross-disciplinary knowledge to generate new insights into, or original ways to conceptualise, the role of practitioners in relation to the form of mediation or type of NDR.
	<b>FOCUS AREA 1.3.4</b> <b>Knows the role of the parties</b>	<b>GRADUATE STANDARD 1.3.4.1</b> Graduates can describe the role of the parties in facilitative mediation.	<b>ACCREDITED STANDARD 1.3.4.2</b> Mediators can compare the role of the parties in facilitative mediation with their role in other forms of mediation or NDR.	<b>ADVANCED STANDARD 1.3.4.3</b> Advanced mediators can differentiate between defining and non-defining elements of a party’s role in a given form of NDR to inform a plan to manage parties’ expectations and optimise their contribution.	<b>MASTER STANDARD 1.3.4.4</b> Master mediators can synthesise cross-disciplinary knowledge to generate new theories on, or unique ways to construct, the role of parties in facilitative mediation or other forms of NDR.



APPENDIX 5 – PROFESSIONAL PRACTICE STANDARDS

	<p><b>FOCUS AREA 1.3.5</b></p> <p><b>Knows the role of support persons, lawyers and other professionals</b></p>	<p>GRADUATE STANDARD 1.3.5.1</p> <p>Graduates can describe the role of support persons, lawyers and other professionals in facilitative mediation.</p>	<p>ACCREDITED STANDARD 1.3.5.2</p> <p>Mediators can compare the role of support persons, lawyers and other professionals in facilitative mediation with their role in other forms of mediation or NDR.</p>	<p>ADVANCED STANDARD 1.3.5.3</p> <p>Advanced mediators can differentiate between defining and non-defining elements of support persons’, lawyers’ and other professionals’ roles in a given form of NDR to inform negotiations for optimising their contribution.</p>	<p>MASTER STANDARD 1.3.5.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to generate new ideas on, or original ways to optimise, the role of support persons, lawyers and other professionals in mediation or other types of NDR.</p>
<p><b>ATTRIBUTE 1.4</b></p> <p><b>Knows a range of strategies or techniques for resolving conflict and when to use them</b></p>	<p><b>FOCUS AREA 1.4.1</b></p> <p><b>Knows communication strategies or techniques</b></p>	<p>GRADUATE STANDARD 1.4.1.1</p> <p>Graduates can identify communication strategies to achieve stated goals or fulfil parts of a facilitative mediation or other non-determinative dispute resolution process.</p> <p><i>ILLUSTRATION 1.4.1.1</i></p> <p><i>Typical communication strategies include rephrasing to neutralise inflammatory language, open-ended questioning to elicit information, open body posture to suggest openness to ideas, timely exchange of documents, etc.</i></p>	<p>ACCREDITED STANDARD 1.4.1.2</p> <p>SEE GRADUATE STANDARD 1.4.1.1</p>	<p>ADVANCED STANDARD 1.4.1.3.</p> <p>Advanced mediators can analyse the ways that communication styles may vary to inform a communication strategy tailored to specific participants and the context for resolving the conflict or dispute.</p>	<p>MASTER STANDARD 1.4.1.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to create new insights or original ideas on communication strategies or techniques for resolving conflict.</p>
	<p><b>FOCUS AREA 1.4.2</b></p> <p><b>Knows negotiation strategies or techniques</b></p>	<p>GRADUATE STANDARD 1.4.2.1</p> <p>Graduates can describe the characteristics of interest-based negotiation and their function in resolving conflict, particularly within a facilitative mediation context.</p> <p><i>ILLUSTRATION 1.4.2.1</i></p> <p><i>Characteristics of negotiation include the seven elements, the four principles, negotiation stage, prioritisation of interest-focused options, BATNA, etc.</i></p>	<p>ACCREDITED STANDARD 1.4.2.2</p> <p>Mediators can compare different types of negotiation, including the way in which each typically influences the strategies and techniques used for resolving conflicts.</p> <p><i>ILLUSTRATION 1.4.2.2</i></p> <p><i>Principled negotiation strategies focus on expanding the pie, distributive negotiation strategies focus on portioning the pie.</i></p>	<p>ADVANCED STANDARD 1.4.2.3</p> <p>Advanced mediators can analyse the ways that negotiation styles might vary to identify strategies tailored to specific participants and the dispute resolution context.</p>	<p>MASTER STANDARD 1.4.2.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to create new insights or original ideas on negotiation strategies or techniques for resolving conflict.</p>
	<p><b>FOCUS AREA 1.4.3</b></p> <p><b>Knows problem-solving strategies or techniques</b></p>	<p>GRADUATE STANDARD 1.4.3.1</p> <p>Graduates can identify problem-solving strategies to achieve stated goals or fulfil parts of a given non-determinative dispute resolution process.</p> <p><i>ILLUSTRATION 1.4.3.1</i></p> <p><i>Typical problem-solving strategies include brainstorming, SWOT analysis, root cause analysis, 5 whys, considering alternatives, developing multiple options, etc.</i></p>	<p>ACCREDITED STANDARD 1.4.3.2</p> <p>SEE GRADUATE STANDARD 1.4.3.1</p>	<p>ADVANCED STANDARD 1.4.3.3</p> <p>Advanced mediators can analyse the ways that problem-solving styles might vary to identify strategies tailored to specific participants and the context of the dispute.</p>	<p>MASTER STANDARD 1.4.3.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to create new insights or original ideas on problem-solving strategies or techniques for resolving conflict.</p>
	<p><b>FOCUS AREA 1.4.4</b></p> <p><b>Knows reality-testing strategies or techniques</b></p>	<p>GRADUATE STANDARD 1.4.4.1</p> <p>Graduates can identify reality-testing strategies to achieve stated goals or fulfil parts of a given NDR process.</p>	<p>ACCREDITED STANDARD 1.4.4.2</p> <p>SEE GRADUATE STANDARD 1.4.4.1</p>	<p>ADVANCED STANDARD 1.4.4.3</p> <p>Advanced mediators can evaluate the risks associated with reality-testing strategies</p>	<p>MASTER STANDARD 1.4.4.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to create new insights or original ideas</p>

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		<p><i>ILLUSTRATION 1.4.4.1</i></p> <p><i>Reality-testing strategies include seeking expert advice or opinion, providing statistical information about typical outcomes, etc.</i></p>		<p>involving the use of information, guidance and advice across a range of NDR contexts.</p> <p><i>ILLUSTRATION 1.4.4.3</i></p> <p><i>What is the potential for cultural guidance to prompt perceptions of bias or unfairness in traditional mediation contexts; what is the risk for conciliators to perceptions that they are making determinations when they are providing guidance and advice as part of reality testing, etc.?</i></p>	<p>on reality testing strategies or techniques for resolving conflict.</p>
<p><b>ATTRIBUTE 1.5</b></p> <p><b>Understands the requirement for even-handedness, safety and protection against misuse of the process</b></p>	<p><b>FOCUS AREA 1.5.1</b></p> <p><b>Understands the requirement for even-handedness</b></p>	<p>GRADUATE STANDARD 1.5.1.1</p> <p>Graduates can describe ways in which even-handedness typically manifests in facilitative mediation.</p>	<p>ACCREDITED STANDARD 1.5.1.2</p> <p>Mediators can analyse the elements of even-handedness to compare strategies for managing expectations and misconceptions across NDR contexts.</p> <p><i>ILLUSTRATION 1.5.1.2</i></p> <p><i>How might strategies for managing expectations about impartiality change if the dispute resolution process includes the need to share unfavourable information about remedies being sought?</i></p>	<p>ADVANCED STANDARD 1.5.1.3</p> <p>SEE ACCREDITED STANDARD 1.5.1.2</p>	<p>MASTER STANDARD 1.5.1.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to generate new insights or original ideas on even-handedness as an inherent requirement of NDR.</p>
	<p><b>FOCUS AREA 1.5.2</b></p> <p><b>Understands the requirement for managing power and safety</b></p>	<p>GRADUATE STANDARD 1.5.2.1</p> <p>Graduates can identify managing power and safety as an inherent requirement in facilitative mediation and cite examples that would require the mediator to refuse to commence, to suspend and/or to terminate the process.</p>	<p>ACCREDITED STANDARD 1.5.2.2</p> <p>Mediators can contrast requirements to manage power and safety in different NDR contexts, including the various circumstances in which a practitioner may consider refusing to commence, to suspend and/or to terminate the given process.</p> <p><i>ILLUSTRATION 1.5.2.2</i></p> <p><i>There may be different expectations for managing power and safety in the context of a personal safety intervention order mediation as compared to a workplace mediation, including when it would be reasonable to suspend or terminate a process.</i></p>	<p>ADVANCED STANDARD 1.5.2.3</p> <p>Advanced mediators can differentiate between requirements to manage power and safety within NDR and other professional contexts to devise a risk management strategy that reconciles the possibility of co-existing obligations.</p> <p><i>ILLUSTRATION 1.5.2.3</i></p> <p><i>Practitioners with co-existing professions may also have co-existing obligations such as duty of care and duty to warn.</i></p>	<p>MASTER STANDARD 1.5.2.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to critique the current requirements for practitioners to manage power and safety to form original ideas on practitioner safety in NDR.</p>
	<p><b>FOCUS AREA 1.5.3</b></p> <p><b>Understands the requirement for protecting against the misuse or abuse of the process</b></p>	<p>GRADUATE STANDARD 1.5.3.1</p> <p>Graduates can identify protecting against misuse and abuse of the process as an inherent requirement in facilitative mediation and cite examples where it would be appropriate for a mediator to refuse to commence, to suspend and/or to terminate the process.</p>	<p>ACCREDITED STANDARD 1.5.3.2</p> <p>Mediators can contrast the circumstances where a mediator may vary their assessment of misuse or abuse of the process, depending on the form of mediation and/or the non-determinative dispute resolution context.</p> <p><i>ILLUSTRATION 1.5.3.2</i></p> <p><i>It may be accepted that within some civil mediation contexts the process will be used in</i></p>	<p>ADVANCED STANDARD 1.5.3.3</p> <p>Advanced mediators can differentiate between critical and non-critical factors to design a strategy for assessing misuse or abuse of the process, including when it is appropriate to refuse to commence, to suspend and/or to terminate a mediation relative to the form of mediation or NDR context.</p>	<p>MASTER STANDARD 1.5.3.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to generate new ideas on, or revised presumptions governing, behaviours that constitute misuse or abuse of the process and the circumstances within which practitioners might refuse to commence, suspend or terminate a process relative to the NDR context.</p>

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			part to assess risk attitudes, testimonial evidence or self- doubts, while in a community context this may constitute bad faith and prompt suspension or termination of the process.		
<b>ATTRIBUTE 1.6</b> <b>Understands the ethical, professional and legal obligations of accredited mediators</b>	<b>FOCUS AREA 1.6.1</b> <b>Understands the ethical obligations of an accredited mediator</b>	<b>GRADUATE STANDARD 1.6.1.1</b> Graduates can identify the Code as the framework governing the ethical obligations of accredited mediators, including expectations concerning the provision of accessible and inclusive services, the promotion of self-determination and informed decision-making, the commitment to even-handedness, safety and preventing misuse of the process, and the declaration of interests.	<b>ACCREDITED STANDARD 1.6.1.2</b> Mediators can describe the ways in which conflicting ethical obligations might arise, depending on the context within which the mediator is working and the dispute resolution processes available to the parties.  <i>ILLUSTRATION 1.6.1.2</i> <i>Is it ever appropriate to mediate claims of workplace bullying or cultural safety given that they are inherently non-negotiable?</i>	<b>ADVANCED STANDARD 1.6.1.3</b> Advanced mediators can reconcile interactions between the Code and co-existing ethical obligations to develop a strategy for managing inconsistencies and promoting trust in the field.	<b>MASTER STANDARD 1.6.1.4</b> Master mediators can critique the interaction between the Code and socio-cultural ethical norms to formulate recommendations for changes or modifications to the Code, or innovative ways to navigate these ethical conundrums.
	<b>FOCUS AREA 1.6.2</b> <b>Understands the professional obligations of an accredited mediator</b>	<b>GRADUATE STANDARD 1.6.2.1</b> Graduates can identify the Code as the framework governing the professional obligations of accredited mediators, including expectations concerning professional interactions and representations, ongoing professional development and competence, and complaints handling.	<b>ACCREDITED STANDARD 1.6.2.2</b> Mediators can describe the ways in which other professional obligations might interact with the obligations arising from the Code, depending on the professional background of the practitioner, the type of NDR being offered, or context within which the mediator is working.  <i>ILLUSTRATION 1.6.2.2</i> <i>Lawyers or psychologists have co-existing professional obligations; this may also be the case for practitioners with dual accreditation, such as FDRPs.</i>	<b>ADVANCED STANDARD 1.6.2.3</b> Advanced mediators can reconcile interactions between the Code and co-existing professional obligations to develop a strategy for managing inconsistencies or professional risk.	<b>MASTER STANDARD 1.6.2.4</b> Master mediators can critique the interaction between the Code and other cross-disciplinary professional obligations to formulate evidence-based recommendations for changes or modifications to either the Code or the respective cross- disciplinary professional obligations.
	<b>FOCUS AREA 1.6.3</b> <b>Understands the legal obligations of an accredited mediator</b>	<b>GRADUATE STANDARD 1.6.3.1</b> Graduates can identify the legal and regulatory frameworks which typically apply to facilitative mediators.  <i>ILLUSTRATION 1.6.3.1</i> <i>Legal and regulatory frameworks are the various state-based Civil Procedure Acts, the Uniform Evidence Acts, the Legal Profession Uniform Laws, 'Without prejudice' privilege, etc.</i>	<b>ACCREDITED STANDARD 1.6.3.2</b> Mediators can describe the ways in which legal or regulatory frameworks might override or interact with the obligations arising from the Professional Practice Standards, depending on the form of mediation, type of NDR being offered, or context within which the mediator is working.  <i>ILLUSTRATION 1.6.3.2</i> <i>If mediation is mandated or a statutory regime limits the remedies available to parties, it may make it more challenging for some practitioners to promote self-determination.</i>	<b>ADVANCED STANDARD 1.6.3.3</b> Advanced mediators can reconcile interactions between the Code and co-existing legislative or regulatory frameworks to develop a strategy for managing inconsistencies or legal risk	<b>MASTER STANDARD 1.6.3.4</b> Master mediators can critique the interaction between the Code and other cross-disciplinary legislative and/or regulatory regimes to inform evidence-based recommendations for changes or modifications to either the Code or the respective cross-disciplinary legislative or regulatory framework.
<b>ATTRIBUTE 1.7</b>	<b>FOCUS AREA 1.7.1</b>	<b>GRADUATE STANDARD 1.7.1.1</b>	<b>ACCREDITED STANDARD 1.7.1.2</b>	<b>ADVANCED STANDARD 1.7.1.3</b>	<b>MASTER STANDARD 1.7.1.4</b>

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<p><b>Understands the scope and types of information, guidance or advice offered by mediators</b></p> <p>Note: Arranged from least complex to most complex</p>	<p><b>Understands the scope and types of information, guidance or advice on procedural matters, including the process if no agreement is reached ('procedural')</b></p>	<p>Graduates can list examples of 'procedural' information, guidance or advice typically permissible within a facilitative mediation.</p> <p><i>ILLUSTRATION 1.7.1.1</i></p> <p><i>Procedural information typically includes what to expect from the facilitative mediation process, the role of the mediator, at what stage the parties can suggest options for resolution, the process if the parties don't attend etc.</i></p>	<p>Mediators can compare the scope and type of 'procedural' information, guidance or advice in facilitative mediation with that of other forms of mediation and/or non-determinative dispute resolution.</p> <p><i>ILLUSTRATION 1.7.1.2</i></p> <p><i>How might the scope for information, guidance or advice on the consequences of not reaching an agreement differ between mediators offering facilitative mediation compared to those practising within a court-annexed program or larger statutory dispute resolution scheme?</i></p>	<p>Advanced mediators can analyse the characteristics of 'procedural' information, guidance or advice across varying forms of mediation and/or other non-determinative dispute resolution to identify general principles for practice within a given dispute resolution context.</p> <p><i>ILLUSTRATION 1.7.1.3</i></p> <p><i>Providing guidance or advice might be permissible in the given context but does framing it as information, or remaining silent, tend to be more conducive to resolution? Alternatively, is it typically more effective in the given context to explicitly advise parties about certain procedural matters from the outset?</i></p>	<p>Master mediators can synthesise cross-disciplinary knowledge to generate insights into best practice or formulate unique perspectives on 'procedural' information, guidance or advice within non-determinative dispute resolution contexts.</p>
	<p><b>FOCUS AREA 1.7.2</b></p> <p><b>Understands the scope and types of information, guidance or advice about options for resolution ('options')</b></p>	<p>GRADUATE STANDARD 1.7.2.1</p> <p>Graduates can list examples of 'options' information, guidance or advice typically permissible within a facilitative mediation.</p> <p><i>ILLUSTRATION 1.7.2.1</i></p> <p><i>Options information, guidance or advice such as providing information during intake on the types of options parties often need to weigh up, indirect guidance via questioning in private sessions.</i></p>	<p>ACCREDITED STANDARD 1.7.2.2</p> <p>Mediators can compare the scope and type of 'options' information, guidance or advice in facilitative mediation with that of other forms of mediation or NDR.</p> <p><i>ILLUSTRATION 1.7.2.2</i></p> <p><i>How might the scope for guidance on options differ between mediators offering facilitative mediation compared to those working within organisational structures or specialist technical contexts?</i></p>	<p>ADVANCED STANDARD 1.7.2.3</p> <p>Advanced mediators can analyse the characteristics of 'options' information guidance or advice across varying forms of mediation and/or other NDR to identify general principles for practice within a given dispute resolution context.</p> <p><i>ILLUSTRATION 1.7.2.3</i></p> <p><i>Providing guidance or advice might be permissible in the given context but does framing it as information, or remaining silent, tend to be more conducive to resolution? Alternatively, is it typically more effective in the given context to explicitly advise parties about their options for resolution at the outset?</i></p>	<p>MASTER STANDARD 1.7.2.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to generate insights into best practice or formulate unique perspectives on 'options' information, guidance or advice within NDR contexts.</p>
	<p><b>FOCUS AREA 1.7.3</b></p> <p><b>Understands the scope and types of information, guidance or advice on substantive matters ('substance')</b></p>	<p>GRADUATE STANDARD 1.7.3.1</p> <p>Graduates can list examples of 'substance' information, guidance or advice which are typically permissible within a facilitative mediation.</p> <p><i>ILLUSTRATION 1.7.3.1</i></p> <p><i>This may include information about common topics for the agenda as part of intake or during agenda-setting phase or indirect guidance via reality testing in private sessions.</i></p>	<p>ACCREDITED STANDARD 1.7.3.2</p> <p>Mediators can compare the scope and type of 'substance' information, guidance or advice in facilitative mediation with that of other forms of mediation and/or NDR.</p> <p><i>ILLUSTRATION 1.7.3.2</i></p> <p><i>How might the scope for guidance on the formulation of the agenda differ between mediators offering facilitative mediation compared to those practising within a court-annexed program or larger statutory dispute resolution scheme?</i></p>	<p>ADVANCED STANDARD 1.7.3.3</p> <p>Advanced mediators can analyse the characteristics of 'substance' information, guidance or advice across varying forms of mediation and/or other NDR to identify general principles for practice within a given dispute resolution context.</p> <p><i>ILLUSTRATION 1.7.3.3</i></p> <p><i>Providing guidance or advice might be permissible in the given context but does framing it as information, or remaining silent, tend to be more conducive to resolution? Alternatively, is it typically more effective in the given context to explicitly advise parties about certain substantive matters at the outset?</i></p>	<p>MASTER STANDARD 1.7.3.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to generate insights into best practice or formulate unique perspectives on 'substance' information, guidance or advice within NDR contexts.</p>
	<p><b>FOCUS AREA 1.7.4</b></p>	<p>GRADUATE STANDARD 1.7.4.1</p>	<p>ACCREDITED STANDARD 1.7.4.2</p>	<p>ADVANCED STANDARD 1.7.4.3</p>	<p>MASTER STANDARD 1.7.4.4</p>

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<p><b>Understands the scope and types of information, guidance or advice on the associated regulatory framework, law or code ('regulatory')</b></p>	<p>Graduates can list examples of 'regulatory' information, guidance or advice which are typically permissible within a facilitative mediation.</p> <p><i>ILLUSTRATION 1.7.4.1</i></p> <p><i>This may include regulatory advice on whether any agreement reached is in good faith or legally binding.</i></p>	<p>Mediators can compare the scope for 'regulatory' information, guidance or advice within facilitative mediation with that of other forms of mediation and/or NDR.</p> <p><i>ILLUSTRATION 1.7.4.2</i></p> <p><i>How might the scope for guidance on the consequences of an agreement differ between mediators offering facilitative mediation compared to those practising within a court-annexed program or larger statutory dispute resolution scheme?</i></p>	<p>Advanced mediators can analyse the characteristics of 'regulatory' information, guidance or advice across varying forms of mediation and/or other NDR to identify general principles for practice within a given context.</p> <p><i>ILLUSTRATION 1.7.4.3</i></p> <p><i>Providing guidance or advice might be permissible in the given context but does framing it as information, or remaining silent, tend to be more conducive to resolution? Alternatively, is it typically more effective in the given context to explicitly advise parties about the regulatory requirements from the outset?</i></p>	<p>Master mediators can synthesise cross-disciplinary knowledge to generate insights into best practice or formulate unique perspectives on 'regulatory' information, guidance or advice within NDR contexts.</p>
<p><b>FOCUS AREA 1.7.5</b></p> <p><b>Understands the scope and types of information, guidance or advice about outcomes observed in similar disputes, claims or cases ('outcomes')</b></p>	<p>GRADUATE STANDARD 1.7.5.1</p> <p>Graduates can list examples of 'outcomes' information, guidance or advice which are typically permissible within a facilitative mediation.</p> <p><i>ILLUSTRATION 1.7.5.1</i></p> <p><i>This may include guidance about the types of outcomes available via facilitative mediation when assessing if the matter is suitable for a particular mediation service.</i></p>	<p>ACCREDITED STANDARD 1.7.5.2</p> <p>Mediators can compare the scope and type of 'outcomes' information, guidance or advice in facilitative mediation with that of other forms of mediation or NDR.</p> <p><i>ILLUSTRATION 1.7.5.2</i></p> <p><i>How might the scope for guidance on the terms of an agreement differ between mediators offering facilitative mediation compared to those practising within a court-annexed program or larger statutory dispute resolution scheme?</i></p>	<p>ADVANCED STANDARD 1.7.5.3</p> <p>Advanced mediators can analyse the characteristics of 'outcomes' information, guidance or advice across varying forms of mediation and/or other NDR to identify general principles for practice within a given context.</p> <p><i>ILLUSTRATION 1.7.5.3</i></p> <p><i>Providing guidance or advice might be permissible in the given context but does framing it as information, or remaining silent, tend to be more conducive to resolution? Alternatively, is it typically more effective in the given context to explicitly advise parties from the outset about outcomes observed in similar cases?</i></p>	<p>MASTER STANDARD 1.7.5.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to generate insights into best practice or formulate unique perspectives on 'outcomes' information, guidance or advice within NDR contexts.</p>
<p><b>FOCUS AREA 1.7.6</b></p> <p><b>Understands scope and types of information, guidance or advice about the merits of a claim or case ('merits')</b></p>	<p>GRADUATE STANDARD 1.7.6.1</p> <p>Graduates can list examples of 'merits' information, guidance or advice typically permissible within a facilitative mediation.</p> <p><i>ILLUSTRATION 1.7.6.1</i></p> <p><i>Merits guidance may include indirect guidance via reality testing in private sessions.</i></p>	<p>ACCREDITED STANDARD 1.7.6.2</p> <p>Mediators can compare the scope and type of 'merits' information, guidance or advice in facilitative mediation with that of other forms of mediation or NDR.</p> <p><i>ILLUSTRATION 1.7.6.2</i></p> <p><i>How might the scope for information on assessing risk differ between mediators offering facilitative mediation compared to those practising within a court-annexed program or larger statutory dispute resolution scheme?</i></p>	<p>ADVANCED STANDARD 1.7.6.3</p> <p>Advanced mediators I can analyse the characteristics of 'merits' information, guidance or advice across varying forms of mediation and/or other NDR to identify general principles for practice within a given context.</p> <p><i>ILLUSTRATION 1.7.6.3</i></p> <p><i>Providing guidance or advice might be permissible in the given context but does framing it as information, or remaining silent, tend to be more conducive to resolution? Alternatively, is it typically more effective in the given context to explicitly advise parties about certain merit- based matters at the outset?</i></p>	<p>MASTER STANDARD 1.7.6.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to generate insights into best practice or formulate unique perspectives on 'merits' information, guidance or advice within NDR contexts.</p>
<p><b>FOCUS AREA 1.7.7</b></p> <p><b>Understands the scope and types of information, guidance</b></p>	<p>GRADUATE STANDARD 1.7.7.1</p> <p>Graduates can list examples of 'socio-cultural or psychological' information, guidance or advice</p>	<p>ACCREDITED STANDARD 1.7.7.2</p> <p>Mediators can compare the scope and type of 'socio-cultural or psychological' information,</p>	<p>ADVANCED STANDARD 1.7.7.3</p> <p>Advanced mediators can analyse the characteristics of 'socio-cultural or psychological' information, guidance or advice</p>	<p>MASTER STANDARD 1.7.7.4</p> <p>Master mediators can synthesise cross-disciplinary knowledge to generate insights into best practice or formulate unique perspectives on 'socio-cultural</p>

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	<p><b>or advice on the cultural, psychological or social context ('socio-cultural or psychological')</b></p>	<p>which are typically permissible within a facilitative mediation.</p> <p><i>ILLUSTRATION 1.7.7.1</i></p> <p><i>Socio-cultural advice may include advice to avoid scheduling a mediation during a religious festival, guidance on the inclusion of young people.</i></p>	<p>guidance or advice in facilitative mediation with that of other forms of mediation or NDR.</p> <p><i>ILLUSTRATION 1.7.7.2</i></p> <p><i>How might the scope for guidance on who might participate in mediation differ between mediators offering facilitative mediation to the general population compared to those working with vulnerable people or practising within a specific cultural context?</i></p>	<p>across varying forms of mediation and/or other NDR to identify general principles for practice within a given context.</p> <p><i>ILLUSTRATION 1.7.7.3</i></p> <p><i>Providing guidance or advice might be permissible in the given context but does framing it as information, or remaining silent, tend to be more conducive to resolution? Alternatively, is it typically more effective in the given context to explicitly advise parties about psychological or socio-cultural factors from the outset?</i></p>	<p>or psychological' information, guidance or advice within NDR contexts.</p>
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Skills		Indicative level of quality or complexity required			
ATTRIBUTES	FOCUS AREAS	GRADUATE STANDARD	ACCREDITED MEDIATOR STANDARD	ADVANCED MEDIATOR STANDARD	MASTER MEDIATOR STANDARD
<p><b>ATTRIBUTE 2.1</b></p> <p><b>Conducts an initial assessment or triage (or someone conducts it on their behalf)</b></p>	<p><b>FOCUS AREA 2.1.1</b></p> <p><b>Assesses the suitability of the matter for mediation generally</b></p>	<p>GRADUATE STANDARD 2.1.1.1</p> <p>Graduates adhere to established guidelines for assessing whether a matter is suitable for mediation.</p> <p><i>ILLUSTRATION 2.1.1.1</i></p> <p><i>They stick to the guidelines provided as part of initial training.</i></p>	<p>ACCREDITED STANDARD 2.1.1.4</p> <p>Even if they have a set of guidelines, Mediators make small changes to the process depending on the situation.</p> <p><i>ILLUSTRATION 2.1.1.4</i></p> <p><i>The screening process might be shorter for repeat clients.</i></p>	<p>ADVANCED STANDARD 2.1.1.3</p> <p>Advanced mediators draw on their experience to identify salient or critical features that typically make matters suitable for mediation.</p> <p><i>ILLUSTRATION 2.1.1.3</i></p> <p><i>Both parties have an interest in keeping the outcome confidential.</i></p>	<p>MASTER STANDARD 2.1.1.4</p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense when a matter is suitable for mediation. This means that I can tell when a matter is suitable even if it doesn't tick all the typical suitability boxes.</p>
	<p><b>FOCUS AREA 2.1.2</b></p> <p><b>Assesses the suitability of the service and/or competence of the mediator (self or other) in relation to the matter</b></p>	<p>GRADUATE STANDARD 2.1.2.1</p> <p>Graduates follow existing guidelines for assessing whether the mediator (self or other) or the service is a suitable match for the matter.</p>	<p>ACCREDITED STANDARD 2.1.2.2</p> <p>Even if they have a set of guidelines, Mediators make careful decisions when assessing whether the service or mediator (self or other) is a suitable match for the matter.</p> <p><i>ILLUSTRATION 2.1.2.2</i></p> <p><i>They know there are some common circumstances where a dispute may involve family members but not require the use of an FDRP.</i></p>	<p>ADVANCED STANDARD 2.1.2.3</p> <p>Advanced mediators draw on their experience to identify the presence of salient or critical features which typically determine if a service is suitable or if the mediator (self or other) has the required level of competence.</p>	<p>MASTER STANDARD 2.1.2.4</p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense when a particular service or mediator (self or other) is suitable for a given matter. This means that they can tell when a service or mediator is a good fit even if it doesn't always look that way at first.</p>
	<p><b>FOCUS AREA 2.1.3</b></p> <p><b>Assesses if parties need advice and support from other services</b></p>	<p>GRADUATE STANDARD 2.1.3.1</p> <p>Graduates follow guidelines for assessing whether parties may need advice or support from other services.</p> <p><i>ILLUSTRATION 2.1.3.1</i></p>	<p>ACCREDITED STANDARD 2.1.3.2</p> <p>Even if they have a set of guidelines, Mediators might make small adjustments based on feedback from the parties.</p> <p><i>ILLUSTRATION 2.1.3.2</i></p>	<p>ADVANCED STANDARD 2.1.3.3</p> <p>Advanced mediators combine input from the parties with their experience to identify the presence of salient or critical needs beyond the scope of their service, which if not addressed, might have a negative impact on the process or a party's ability to participate.</p>	<p>MASTER STANDARD 2.1.3.4</p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense when parties may need access to support or advice from another service in order to make the most of the process. their depth of experience means that they</p>

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		<i>They might provide parties with a list of commonly used advice and support services.</i>	<i>They might make suggestions or encourage the use of services matched to parties' needs.</i>		can tell when a party may need to access these services even if it is not immediately apparent.
	<b>FOCUS AREA 2.1.4</b> <b>Establishes a plan for mediation</b>	GRADUATE STANDARD 2.1.4.1 Even if they have a template to follow when establishing a plan for mediation, Graduates take the time to identify anything that might be missing or clarify potential misconceptions. <i>ILLUSTRATION 2.1.4.1</i> <i>If the office has moved location or the parties appear to have misunderstood the process will be online etc.</i>	ACCREDITED STANDARD 2.1.4.2 Mediators combine input from the parties with their experience to identify the critical elements and priorities when establishing a plan for mediation. This allows them the flexibility to think things through and adapt the plan to match the parties' objectives or the context of the dispute.	ADVANCED STANDARD 2.1.4.3 SEE ACCREDITED STANDARD 2.1.4.2	MASTER STANDARD 2.1.4.4 Master mediators are thought leaders or innovators in this area. They quickly anticipate what parties need when establishing a plan for mediation. Their depth of experience means they sometimes perceive planning needs that may not be obvious to those with less experience.
<b>ATTRIBUTE 2.2</b> <b>Supports self-determination and informed decision making</b>	<b>FOCUS AREA 2.2.1</b> <b>Assists parties understand what to expect from the process and the roles of the people involved, including voluntariness and authority to make decisions</b>	GRADUATE STANDARD 2.2.1.1 Even if they have a process or script, Graduates are aware that some things can be easily overlooked. They take the time to think about what else the parties might need to know. Graduates do this because they are aware that it is easy for people new to the process to have misconceptions about the process or what is required from everyone involved. <i>ILLUSTRATION 2.2.1.1</i> <i>Graduates check that they understand concepts such as confidentiality, authority and voluntariness within the context of the given non-determinative dispute resolution process.</i>	ACCREDITED STANDARD 2.2.1.2 SEE GRADUATE STANDARD 2.2.1.1	ADVANCED STANDARD 2.2.1.3 Advanced mediators combine input from the parties with their experience to identify the information that is critical at a given point in time. <i>ILLUSTRATION 2.2.1.3</i> <i>They are strategic about the information they provide as some parties, especially those who are new to the given dispute resolution process, may be overwhelmed by receiving all the information at once.</i>	MASTER STANDARD 2.2.1.4 Master mediators are thought leaders or innovators in this area. They quickly sense when parties need assistance to understand what to expect from the process and the roles of the people involved. their depth of experience and means that they can tailor their help to accommodate all manner of needs, even those that may not be immediately apparent to practitioners with less experience.
	<b>FOCUS AREA 2.2.2</b> <b>Identifies and implements adaptations to accommodate diverse needs</b>	GRADUATE STANDARD 2.2.2.1 Graduates draw on a standardised or routine set of adaptations to accommodate diverse needs. Any adaptations they make tend to be limited to a defined set of common needs and associated modifications. <i>ILLUSTRATION 2.2.2.1</i> <i>Graduates identify that it is common for some parties to need interpreters and provide the details for a particular interpreter service.</i>	ACCREDITED STANDARD 2.2.2.2 Even if they have a routine set of adaptations to accommodate diverse needs, Mediators take time to think before making any decisions about how to adapt their practice. <i>ILLUSTRATION 2.2.2.2</i> <i>They might consider a few possible options, including input from the parties, before making an on-balance judgement about what to do in the given dispute resolution context.</i>	ADVANCED STANDARD 2.2.2.3 Advanced mediators have experience working with diverse people and communities. They draw on these experiences to predict or anticipate potential adaptations that may assist with the given process and maximise parties' participation. <i>ILLUSTRATION 2.2.2.3</i> <i>The mediator might have lived experience.</i>	MASTER STANDARD 2.2.2.4 Master mediators are thought leaders or innovators in this area. They quickly sense how and when to adapt their practice to accommodate diverse needs. Their depth of experience in this area of diversity means they can pre-empt or mitigate issues that may not be obvious to those with less experience.
	<b>FOCUS AREA 2.2.3</b> <b>Ensures consent is informed</b>	GRADUATE STANDARD 2.2.3.1 Graduates adhere to a standardised process or script to obtain consent from the parties.	ACCREDITED STANDARD 2.2.3.2 Even if following a process or script, Mediators consciously think about whether a party is giving informed consent. One reason for this is that they are aware of some of the common misconceptions about mediation or other NDR processes.	ADVANCED STANDARD 2.2.3.3 Advanced mediators draw on their experience to identify critical points at which they need to ensure consent is informed. <i>ILLUSTRATION 2.2.3.3</i> <i>Even if they have obtained consent at the outset of the process, they are aware that there may</i>	MASTER STANDARD 2.2.3.4 Master mediators are thought leaders or innovators in this area. They quickly sense when consent may not be informed. Their depth of experience means they can pre-empt or mitigate risks that may not be obvious to those with less experience.

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			<p><i>ILLUSTRATION 2.2.3.2</i></p> <p>Checking in with parties about any misconceptions is part of their process.</p>	<p><i>be times during the process when they need to obtain additional consent, reconfirm existing consent or assist parties to obtain further information before continuing.</i></p>	
	<p><b>FOCUS AREA 2.2.4</b></p> <p><b>Assists parties to adopt a resolution mindset</b></p>	<p>GRADUATE STANDARD 2.2.4.1</p> <p>Even if they are using a process or script, Graduates think about what else parties might need and make minor changes based on parties stated needs, the dispute resolution context, or their understanding of the importance of parties adopting a resolution mindset.</p> <p><i>ILLUSTRATION 2.2.4.1</i></p> <p>Graduates might focus on different ways of looking at the conflict or strategies for identifying what is important to each of the parties.</p>	<p>ACCREDITED STANDARD 2.2.4.2</p> <p>SEE GRADUATE STANDARD 2.2.4.1</p>	<p>ADVANCED STANDARD 2.2.4.3</p> <p>Advanced mediators combine input from the parties with their experience to identify the areas within which a resolution mindset is critical. They know from experience that if these areas are overlooked, there is a good chance that the given process will be negatively affected.</p> <p><i>ILLUSTRATION 2.2.4.3</i></p> <p>They know that they will often need to focus on helping parties develop and implement a negotiation strategy, with well-considered alternatives to a negotiated agreement and multiple options for resolution.</p>	<p>MASTER STANDARD 2.2.4.4</p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense the level of assistance parties need to adopt a resolution mindset that is suited to the dispute resolution context. Their depth of experience means they may see how having the right frame of mind can influence each step of the process. Sometimes this influence manifests in ways that are not obvious to others with less experience.</p>
<p><b>ATTRIBUTE 2.3</b></p> <p><b>Manages the process</b></p>	<p><b>FOCUS AREA 2.3.1</b></p> <p><b>Facilitates the selected process</b></p>	<p>GRADUATE STANDARD 2.3.1.1</p> <p>Even if they have a template to follow for the process, Graduates make minor adaptations if required.</p> <p><i>ILLUSTRATION 2.3.1.1</i></p> <p>Graduates can switch to shuttle mediation or adjust the agenda outside the agenda-setting stage.</p>	<p>ACCREDITED STANDARD 2.3.1.2</p> <p>SEE GRADUATE STANDARD 2.3.1.1</p>	<p>ADVANCED STANDARD 2.3.1.3</p> <p>Advanced mediators see the selected process holistically, which means they stay true to the critical or defining features of the selected process while also adapting to suit the parties or context.</p> <p><i>ILLUSTRATION 2.3.1.3</i></p> <p>They might give parties more control or draw from other NDR processes to maximise the potential for resolution.</p>	<p>MASTER STANDARD 2.3.1.4</p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense when a selected process is likely to maximise the chance for a lasting resolution. Their depth of experience means they incorporate elements of other NDR in ways that may not be obvious to practitioners with less experience.</p> <p><i>ILLUSTRATION 2.3.1.4</i></p> <p>They might incorporate elements of transformative mediation while conducting an unfair dismissal conciliation).</p>
	<p><b>FOCUS AREA 2.3.2</b></p> <p><b>Manages confidentiality</b></p>	<p>GRADUATE STANDARD 2.3.2.1</p> <p>Graduates adhere to the confidentiality protocols and scripts set out by their workplace, provided as part of initial training, or described in a text.</p>	<p>ACCREDITED STANDARD 2.3.2.2</p> <p>Even though they follow a set of protocols or scripts to help them manage confidentiality, Mediators are alert to some of the common misconceptions and can make minor adaptations if required.</p> <p><i>ILLUSTRATION 2.3.2.2</i></p> <p>They might seek guidance on a complex issue as part of professional supervision even though they told the parties the process was confidential.</p>	<p>ADVANCED STANDARD 2.3.2.3</p> <p>Advanced mediators see the process of managing confidentiality holistically, which means, if they have a chance to analyse the situation, they adapt the way they manage confidentiality to match the needs of the NDR context.</p> <p><i>ILLUSTRATION 2.3.2.3</i></p> <p>As a hybrid practitioner, they might need to disclose all confidential information received in mediation if it is material to the arbitration, which is very different to the way they manage confidentiality when they are working as a community mediator.</p>	<p>NO ADDITIONAL LEVEL</p>



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	<p><b>FOCUS AREA 2.3.3</b> <b>Manages impasse</b></p>	<p>GRADUATE STANDARD 2.3.3.1 Even though they have a script or set of prompts, Graduates attempt minor changes or substitute different strategies if they are not getting anywhere. <i>ILLUSTRATION 2.3.3.1</i> <i>Graduates might ask different questions when reality testing depending on the parties' stated goals.</i></p>	<p>ACCREDITED STANDARD 2.3.3.2 Mediators draw on their knowledge and experience to identify the salient or critical features at play when parties reach an impasse. This allows them to develop a targeted strategy or set of priorities matched to the parties and the context of the dispute. <i>ILLUSTRATION 2.3.3.2</i> <i>They might identify that parties are having difficulty navigating unstated or unmet needs in relation to one or more of the Five Core Concerns, including preventing one of the parties from accepting an offer that exceeds their stated position or interests.</i></p>	<p>ADVANCED STANDARD 2.3.3.3 SEE ACCREDITED STANDARD 2.3.3.2</p>	<p>MASTER STANDARD 2.3.3.4 Master mediators are thought leaders or innovators in this area. They quickly spot potential areas where parties might get stuck or come to an impasse. Their depth of experience means they recognise the signs well before they might become evident to those with less experience.</p>
	<p><b>FOCUS AREA 2.3.4</b> <b>Manages emotions</b></p>	<p>GRADUATE STANDARD 2.3.4.1 Graduates have several strategies for managing emotions. They use their judgment to select the most suitable strategy for the situation. <i>ILLUSTRATION 2.3.4.1</i> <i>If a person is really agitated Graduates might use a high-emotion de-escalation strategy, whereas they might use mirroring for someone whose emotional needs may be met by feeling heard.</i></p>	<p>ACCREDITED STANDARD 2.3.4.2 Mediators draw on their knowledge and experience to identify the salient or critical features at play when managing emotions. <i>ILLUSTRATION 2.3.4.2</i> <i>In distinguishing between constructive and destructive manifestations of emotion, they make conscious choices about when to embrace the emotion and when to defuse or redirect parties). They monitor the emotional temperature, including their own emotional state.</i></p>	<p>ADVANCED STANDARD 2.3.4.3 SEE ACCREDITED STANDARD 2.3.4.2</p>	<p>MASTER STANDARD 2.3.4.4 Master mediators are thought leaders or innovators in this area. They quickly attune to the emotional climate and their depth of experience allows them to foresee issues that may not be apparent to practitioners with less experience.</p>
	<p><b>FOCUS AREA 2.3.5</b> <b>Facilitates the recording of the outcome</b></p>	<p>GRADUATE STANDARD 2.3.5.1 Even though they have been given a protocol to use, Graduates are aware that some common mistakes can occur when outcomes are recorded. <i>ILLUSTRATION 2.3.5.1</i> <i>Even if things are clear at the time, a lack of specificity can create uncertainty and ambiguity down the track.</i></p>	<p>ACCREDITED STANDARD 2.3.5.2 Mediators draw on their knowledge and experience to identify the critical elements for facilitating the recording of the outcome. They take a systematic approach to assessing risks. <i>ILLUSTRATION 2.3.5.2</i> <i>The potential that the record of the outcome may be required at a later stage or high stakes setting, striking a balance between conciseness and detail depending on future needs.</i></p>	<p>ADVANCED STANDARD 2.3.5.3 SEE ACCREDITED STANDARD 2.3.5.2</p>	<p>MASTER STANDARD 2.3.5.4 Master mediators are thought leaders or innovators in this area. They quickly sense potential issues when facilitating the recording of an outcome. The depth of their experience means they can foresee consequences in ways not possible for less experienced practitioners.</p>
<p><b>ATTRIBUTE 2.4</b> <b>Supports parties to participate in the process</b></p>	<p><b>FOCUS AREA 2.4.1</b> <b>Assists parties to communicate with each other, exchange information and seek understanding</b></p>	<p>GRADUATE STANDARD 2.4.1.1 Even if they have a communication strategy to follow, Graduates make minor adaptations if required. <i>ILLUSTRATION 2.4.1.1</i> <i>Graduates might talk through ways to frame communication with one of the parties or</i></p>	<p>ACCREDITED STANDARD 2.4.1.2 Mediators see the selected process holistically, which means they see the nuances and priorities for assisting parties to communicate in a way that will help them achieve a lasting resolution. They are systematic about assisting parties to develop a communication strategy</p>	<p>ADVANCED STANDARD 2.4.1.3 SEE ACCREDITED STANDARD 2.4.1.2</p>	<p>MASTER STANDARD 2.4.1.4 Master mediators are thought leaders or innovators in this area. They quickly sense the role of communication on the potential for parties to achieve a lasting resolution. Their depth of experience means they see opportunities and</p>

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	<p><i>potential questions they might ask if they need further information from the other party.</i></p>	<p>and draw on their knowledge and experience to achieve their communication goals.</p> <p><i>ILLUSTRATION 2.4.1.2</i></p> <p><i>They might help parties account for varying communication preferences of styles, subtext, their goals and the context of the dispute.</i></p>		<p>barriers that may not be obvious to practitioners with less experience.</p> <p><i>ILLUSTRATION 2.4.1.4</i></p> <p><i>They might recognise something that looks to many as something quite minor, but which may significantly affect the quality of the parties' communication.</i></p>
<p><b>FOCUS AREA 2.4.2</b></p> <p><b>Assists parties to identify, clarify and explore interests, issues and underlying needs</b></p>	<p>GRADUATE STANDARD 2.4.2.1</p> <p>Even though they have a protocol or script, Graduates make minor adjustments depending on the situation.</p> <p><i>ILLUSTRATION 2.4.2.1</i></p> <p><i>Graduates may use analogies in some situations or link back to something said previously.</i></p>	<p>ACCREDITED STANDARD 2.4.2.2</p> <p>Mediators take a holistic view when assisting parties to identify, clarify, and explore interests, issues, and underlying needs. They are systematic and draw on their knowledge and experience to prioritise interests and needs critical to achieving a lasting resolution.</p>	<p>ADVANCED STANDARD 2.4.2.3</p> <p>SEE ACCREDITED STANDARD 2.4.2.2</p>	<p>MASTER STANDARD 2.4.2.4</p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense the interests, issues, or needs vital to achieving lasting resolution. Their depth of experience means that they recognise when underlying interests, issues or needs have not been adequately identified, clarified or explored. The signs that prompt this may not be discernible to less experienced practitioners.</p>
<p><b>FOCUS AREA 2.4.3</b></p> <p><b>Assists parties to consider their alternatives</b></p>	<p>GRADUATE STANDARD 2.4.3.1</p> <p>Even if they have a set of questions that they are expected to ask, Graduates are aware that parties sometimes have misconceptions or unrealistic expectations about their alternatives.</p> <p><i>ILLUSTRATION 2.4.3.1</i></p> <p><i>There are a few areas where this commonly happens, so Graduates watch out for the need to do a bit of reality testing when this occurs-</i></p>	<p>ACCREDITED STANDARD 2.4.3.2</p> <p>Mediators draw on their experience to identify the elements most likely to assist parties to think critically about their alternatives.</p> <p><i>ILLUSTRATION 2.4.3.2</i></p> <p><i>By taking parties through a careful analysis of underlying interests and the risks associated with pursuing any one of the alternatives, the reality of the situation starts to become apparent.</i></p>	<p>ADVANCED STANDARD 2.4.3.3</p> <p>SEE ACCREDITED STANDARD 2.4.3.2</p>	<p>MASTER STANDARD 2.4.3.4</p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense the extent to which parties are overconfident or unrealistic about the strength of their alternatives. The depth of their experience means they can sometimes tell what is really driving the parties' considerations, even if it would not be readily apparent to someone with less experience.</p>
<p><b>FOCUS AREA 2.4.4</b></p> <p><b>Assists parties to generate and evaluate options</b></p>	<p>GRADUATE STANDARD 2.4.4.1</p> <p>Even if they have a set of questions that they are expected to ask, Graduates are aware that parties sometimes miss obvious options or have unrealistic expectations.</p> <p><i>ILLUSTRATION 2.4.4.1</i></p> <p><i>There are a few areas where this commonly happens, so Graduates watch out for the need to do a bit of reality testing when this occurs.</i></p>	<p>ACCREDITED STANDARD 2.4.4.2</p> <p>Mediators draw on their experience to identify the elements most likely to assist parties to think critically when generating or evaluating options.</p> <p><i>ILLUSTRATION 2.4.4.2</i></p> <p><i>By taking parties through a careful analysis of underlying interests and the risks associated with pursuing any one of the options, the reality of the situation starts to become apparent.</i></p>	<p>ADVANCED STANDARD 2.4.4.3</p> <p>SEE ACCREDITED STANDARD 2.4.4.2</p>	<p>MASTER STANDARD 2.4.4.4</p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense the extent to which parties are overconfident or unrealistic about their options. The depth of their experience means they recognise the nuances that may not be discernible to practitioners with less experience.</p> <p><i>ILLUSTRATION 2.4.4.4</i></p> <p><i>They anticipate when parties are at risk of allowing unconscious factors to drive their evaluations.</i></p>
<p><b>FOCUS AREA 2.4.5</b></p> <p><b>Assists parties to negotiate with each other</b></p>	<p>GRADUATE STANDARD 2.4.5.1</p> <p>Even if they have an established protocol, Graduates can make minor adjustments.</p> <p><i>ILLUSTRATION 2.4.5.1</i></p>	<p>ACCREDITED STANDARD 2.4.5.2</p> <p>Mediators draw on their knowledge and experience with various negotiation techniques to assist parties in developing and implementing a holistic negotiation strategy.</p>	<p>ADVANCED STANDARD 2.4.5.3</p> <p>SEE ACCREDITED STANDARD 2.4.5.2</p>	<p>MASTER STANDARD 2.4.5.4</p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense the extent to which parties have what it takes to negotiate a great outcome. The depth of their experience means they anticipate what parties</p>

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		<i>Sometimes parties may want to just focus on the money, so Graduates don't always insist they go through the seven elements of principled negotiation-</i>	<i>ILLUSTRATION 2.4.5.2 They might help parties think critically to mix and match negotiation styles depending on the stage or goals.</i>		need and prevent issues that may not be obvious to a less experienced practitioner. <i>ILLUSTRATION 2.4.5.4 They can assist parties to reorient negotiations that have taken a wrong turn following the well-intentioned use of a mismatched negotiation strategy.</i>
<b>ATTRIBUTE 2.5</b> <b>Manages risks to even-handedness, safety or misuse of the process</b>	<b>FOCUS AREA 2.5.1</b> <b>Ensures an even-handed process</b>	<b>GRADUATE STANDARD 2.5.1.1</b> Even if they have a routine or set of protocols, Graduates are aware that some things can pose a risk to even-handedness.	<b>ACCREDITED STANDARD 2.5.1.2</b> Mediators draw on their experience to identify the presence of critical features which indicate a potential risk to even-handedness. <i>ILLUSTRATION 2.5.1.2 They are conscious that the perception of even-handedness is just as important as actual even-handedness, so Mediators work with parties to explain why they might need to customise or adapt some aspects of their practice to meet everyone's needs.</i>	<b>ADVANCED STANDARD 2.5.1.3</b> SEE ACCREDITED STANDARD 2.5.1.2	<b>MASTER STANDARD 2.5.1.4</b> Master mediators are thought leaders or innovators in this area. They quickly sense issues associated with bias or other aspects of even-handedness. This means they can tell when risks are present, even if it is not immediately apparent to colleagues with less experience. <i>ILLUSTRATION 2.5.1.4 Their depth of experience prompts vigilance of the effects of unconscious bias.</i>
	<b>FOCUS AREA 2.5.2</b> <b>Manages power imbalance</b>	<b>GRADUATE STANDARD 2.5.2.1</b> Even if they have a number of strategies for identifying and managing power imbalance, Graduates remain aware of the ongoing risk.	<b>ACCREDITED STANDARD 2.5.2.2</b> Mediators draw on their experience to anticipate potential power imbalances and design a strategy to manage them. Because they take a holistic perspective and have identified the salient features, they see the likely flow-on effects if power imbalances are left unchecked. <i>ILLUSTRATION 2.5.2.2 They adapt the process to reduce follow-on risks to safety or fairness.</i>	<b>ADVANCED STANDARD 2.5.2.3</b> SEE ACCREDITED STANDARD 2.5.2.2	<b>MASTER STANDARD 2.5.2.4</b> Master mediators are thought leaders or innovators in this area. They quickly sense when power imbalance is going to be a factor in resolving the dispute. <i>ILLUSTRATION 2.5.2.4 Their depth of experience has taught them that power is not always as it appears.</i>
	<b>FOCUS AREA 2.5.3</b> <b>Assists parties to contemplate the needs of vulnerable stakeholders</b>	<b>GRADUATE STANDARD 2.5.3.1</b> Even if they have a number of strategies for assisting parties to contemplate the needs of vulnerable stakeholders, Graduates can accommodate some minor variations if required.	<b>ACCREDITED STANDARD 2.5.3.2</b> Mediators draw on their experience to anticipate the needs of vulnerable stakeholders. By taking a holistic perspective, they prompt parties to think critically about the needs of vulnerable stakeholders.	<b>ADVANCED STANDARD 2.5.3.3</b> SEE ACCREDITED STANDARD 2.5.3.2	<b>MASTER STANDARD 2.5.3.4</b> Master mediators are thought leaders or innovators in this area. They quickly sense when the needs of vulnerable stakeholders will be an important consideration for achieving a lasting resolution. Sometimes this means that they will see things in ways not possible for those with less experience.
	<b>FOCUS AREA 2.5.4</b> <b>Manages safety of participants or vulnerable stakeholders</b>	<b>GRADUATE STANDARD 2.5.4.1</b> Even if they have a number of strategies for identifying and managing safety, Graduates remain aware of the ongoing risk.	<b>ACCREDITED STANDARD 2.5.4.2</b> Mediators draw on their experience to anticipate risks to safety and design a strategy to mitigate these risks. Because they take a holistic perspective, they account for the safety	<b>ADVANCED STANDARD 2.5.4.3</b> SEE ACCREDITED STANDARD 2.5.4.2	<b>MASTER STANDARD 2.5.4.4</b> Master mediators are thought leaders or innovators in this area. They quickly foresee risks to safety and the role they play in resolving the dispute. Sometimes this means that I will see

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			of the parties, as well as any vulnerable stakeholders who may not be present.		things that may not be obvious to those with less experience.
	<b>FOCUS AREA 2.5.5</b> <b>Navigates misuse or abuse of process, including participating in bad faith</b>	<b>GRADUATE STANDARD 2.5.5.1</b> Even though they have a checklist they can work from, Graduates consider behaviours not on their list.	<b>ACCREDITED STANDARD 2.5.5.2</b> Mediators take a holistic view of bad faith and misuse/abuse of the process. This helps them identify the critical elements for a given dispute resolution context. <i>ILLUSTRATION 2.5.5.2</i> <i>If they don't take factors such as the dispute resolution context into account, they may misinterpret the severity of the behaviour and fail to respond proportionately.</i>	<b>ADVANCED STANDARD 2.5.5.3</b> SEE ACCREDITED STANDARD 2.5.5.2	<b>MASTER STANDARD 2.5.5.4</b> Master mediators are thought leaders or innovators in this area. They quickly attune to misuse/abuse of the process or bad faith. Their depth of experience allows them to recognise some of the subtle nuances that may not be apparent to practitioners with less experience.
<b>ATTRIBUTE 2.6</b> <b>Meets their ethical, professional, and legal obligations as an accredited mediator</b>	<b>FOCUS AREA 2.6.1</b> <b>Meets their ethical obligations as an accredited mediator</b>	<b>GRADUATE STANDARD 2.6.1.1</b> Graduates adhere to the guidelines or template provided to them by their workplace, training provider or RAP (RMAB).	<b>ACCREDITED STANDARD 2.6.1.2</b> Mediators draw on their experience to identify the guiding principles which underpin these ethical obligations. In taking a holistic perspective, they adapt to ensure their approach is ethical even if the situation is novel, conflicted or ambiguous. <i>ILLUSTRATION 2.6.1.2</i> <i>Guiding principles include the requirement to provide accessible and inclusive services, promote self-determination and informed decision-making, commit to ensuring even-handedness, safety and preventing misuse of the process, and the declaration of interests, etc.</i>	<b>ADVANCED STANDARD 2.6.1.3</b> SEE ACCREDITED STANDARD 2.6.1.2	<b>MASTER STANDARD 2.6.1.4</b> Master mediators are thought leaders or innovators in this area. They quickly sense risks connected to their ethical obligations as an accredited mediator. Their depth of experience means they can pre-empt or mitigate risks that may not be obvious to those with less experience.
	<b>FOCUS AREA 2.6.2</b> <b>Meets their professional obligations as an accredited mediator</b>	<b>GRADUATE STANDARD 2.6.2.1</b> Graduates adhere to the guidelines or template provided to them by their workplace, training provider or RAP (RMAB).	<b>ACCREDITED STANDARD 2.6.2.2</b> Mediators draw on their experience to identify the guiding principles which underpin these professional expectations. In taking a holistic perspective, they adapt to ensure their approach is professional even if the situation is novel, conflicted or otherwise challenging.	<b>ADVANCED STANDARD 2.6.2.3</b> SEE ACCREDITED STANDARD 2.6.2.2	<b>MASTER STANDARD 2.6.2.4</b> Master mediators are thought leaders or innovators in this area. They quickly sense risks connected to their professional obligations as an accredited mediator. Their depth of experience means they can pre-empt or mitigate risks that may not be obvious to those with less experience.
	<b>FOCUS AREA 2.6.3</b> <b>Meets their legal obligations as an accredited mediator</b>	<b>GRADUATE STANDARD 2.6.3.1</b> Graduates adhere to the guidelines or template provided to them by their workplace, training provider or RAP (RMAB).	<b>ACCREDITED STANDARD 2.6.3.2</b> Even if they have a set of guidelines, Mediators know that there are a number of legal obligations to account for. <i>ILLUSTRATION 2.6.3.2</i> <i>These may include various state- based Civil Procedure Acts, the Uniform Evidence Acts, 'Without prejudice' privilege, etc.</i>	<b>ADVANCED STANDARD 2.6.3.3</b> Advanced mediators draw on their experience to identify the guiding principles which underpin these legal obligations. In taking a holistic perspective, they adapt to ensure their approach is legal even if the situation is novel, untested or complex.	<b>MASTER STANDARD 2.6.3.4</b> Master mediators are thought leaders or innovators in this area. They quickly anticipate legal risks associated with their obligations as an accredited mediator. Their depth of experience means they can pre-empt or mitigate risks that may not be obvious to those with less experience.

APPENDIX 5 – PROFESSIONAL PRACTICE STANDARDS

<p><b>ATTRIBUTE 2.7</b></p> <p><b>Provides information, guidance or advice as appropriate to the process</b></p> <p>Note: Arranged from least complex to most complex</p>	<p><b>FOCUS AREA 2.7.1</b></p> <p><b>Provides information, guidance, or advice on procedural matters, including the process if no agreement is reached</b></p>	<p><b>GRADUATE STANDARD 2.7.1.1</b></p> <p>Even if they have scripts, Graduates make small changes to my 'procedural' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.1.1</i></p> <p><i>Graduates might refer back to a party's stated goals, provide additional detail, or clarify common 'procedural' misconceptions if they arise.</i></p>	<p><b>ACCREDITED STANDARD 2.7.1.2</b></p> <p>Mediators draw on their experience to identify critical points at which parties may benefit from 'procedural' information, guidance or advice.</p> <p><i>ILLUSTRATION 2.7.1.2</i></p> <p><i>In consultation with the parties, Mediators establish their appetite for 'procedural' information, guidance or advice and, if required, establish permission to be frank if the 'procedural' information, guidance or advice is unfavourable.</i></p>	<p><b>ADVANCED STANDARD 2.7.1.3</b></p> <p>SEE ACCREDITED STANDARD 2.7.1.2</p>	<p><b>MASTER STANDARD 2.7.1.4</b></p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense when parties might benefit from 'procedural' information, guidance or advice. Their depth of experience means they can pre-empt or foresee gaps or errors, the consequences of which may not be obvious to those with less experience.</p>
	<p><b>FOCUS AREA 2.7.2</b></p> <p><b>Provides information, guidance or advice about options for resolution</b></p>	<p><b>GRADUATE STANDARD 2.7.2.1</b></p> <p>Even if they have scripts, Graduates make small changes to their 'options' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.2.1</i></p> <p><i>Graduates might refer back to something previously said, ask probing questions designed to elicit particular options or clarify common misconceptions about certain options.</i></p>	<p><b>ACCREDITED STANDARD 2.7.2.2</b></p> <p>Mediators draw on their experience to identify critical points at which parties may benefit from 'options' information, guidance or advice.</p> <p><i>ILLUSTRATION 2.7.2.2</i></p> <p><i>In consultation with the parties, Mediators establish their appetite for 'options' information, guidance or advice and, if required, establish permission to be frank if the 'options' information, guidance or advice is unfavourable.</i></p>	<p><b>ADVANCED STANDARD 2.7.2.3</b></p> <p>SEE ACCREDITED STANDARD 2.7.2.2</p>	<p><b>MASTER STANDARD 2.7.2.4</b></p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense when parties might benefit from 'options' information, guidance or advice. Their depth of experience means they can pre-empt or foresee gaps or errors, the consequences of which may not be obvious to those with less experience.</p>
	<p><b>FOCUS AREA 2.7.3</b></p> <p><b>Provides information, guidance or advice on substantive matters</b></p>	<p><b>GRADUATE STANDARD 2.7.3.1</b></p> <p>Graduates adhere to scripts when providing 'substance' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.2.1</i></p> <p><i>The scripts provided to them by their workplace.</i></p>	<p><b>ACCREDITED STANDARD 2.7.3.2</b></p> <p>Even if they have scripts, Mediators make small changes to their 'substance' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.3.2</i></p> <p><i>They might refer back to something previously said, provide additional detail, or clarify common 'substance' misconceptions if they arise.</i></p>	<p><b>ADVANCED STANDARD 2.7.3.3</b></p> <p>Advanced mediators draw on their experience to identify critical points at which parties may benefit from 'substance' information, guidance or advice.</p> <p><i>ILLUSTRATION 2.7.3.3</i></p> <p><i>In consultation with the parties, they establish their appetite for 'substance' information, guidance or advice and, if required, establish permission to be frank if the 'substance' information, guidance or advice is unfavourable.</i></p>	<p><b>MASTER STANDARD 2.7.3.4</b></p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense when parties might benefit from 'substance' information, guidance or advice. Their depth of experience means they can pre-empt or foresee gaps or errors, the consequences of which may not be obvious to those with less experience.</p>
	<p><b>FOCUS AREA 2.7.4</b></p> <p><b>Provides information, guidance or advice on the associated regulatory framework, law or code</b></p>	<p><b>GRADUATE STANDARD 2.7.4.1</b></p> <p>Graduates adhere to scripts when providing 'regulatory' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.4.1</i></p> <p><i>The scripts provided to them by their workplace.</i></p>	<p><b>ACCREDITED STANDARD 2.7.4.2</b></p> <p>Even if they have scripts, Mediators make small changes to their 'regulatory' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.4.2</i></p> <p><i>They might provide additional detail or clarify common misconceptions about the 'regulatory' aspects of mediation or given form of NDR.</i></p>	<p><b>ADVANCED STANDARD 2.7.4.4</b></p> <p>Advanced mediators draw on their experience to identify critical points at which parties may benefit from 'regulatory' information, guidance or advice.</p> <p><i>ILLUSTRATION 2.7.4.4</i></p> <p><i>In consultation with the parties, they establish their appetite for 'regulatory' information, guidance or advice and, if required, establish permission to be frank if the 'regulatory' information, guidance or advice is unfavourable.</i></p>	<p><b>MASTER STANDARD 2.7.4.4</b></p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense when parties might benefit from 'regulatory' information, guidance or advice. Their depth of experience means they can pre-empt or foresee gaps or errors, the consequences of which may not be obvious to those with less experience.</p>

**APPENDIX 5 – PROFESSIONAL PRACTICE STANDARDS**

<p><b>FOCUS AREA 2.7.5</b></p> <p><b>Provides information, guidance or advice about outcomes observed in similar claims or cases</b></p>	<p><b>GRADUATE STANDARD 2.7.5.1</b></p> <p>Graduates adhere to scripts when providing 'outcomes' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.5.1</i></p> <p><i>Modelled to them by another practitioner or scripts provided by their panel administrator.</i></p>	<p><b>ACCREDITED STANDARD 2.7.5.2</b></p> <p>Even if they have scripts, Mediators make small changes to their 'outcomes' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.5.2</i></p> <p><i>They might distinguish theoretical and statistically likely outcomes or clarify common 'outcomes' misconceptions if they arise.</i></p>	<p><b>ADVANCED STANDARD 2.7.5.4</b></p> <p>Advanced mediators draw on their experience to identify critical points at which parties may benefit from 'outcomes' information, guidance or advice.</p> <p><i>ILLUSTRATION 2.7.5.4</i></p> <p><i>In consultation with the parties, they establish their appetite for 'outcomes' information, guidance or advice and, if required, establish permission to be frank if the 'outcomes' information, guidance or advice is unfavourable.</i></p>	<p><b>MASTER STANDARD 2.7.5.4</b></p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense when parties might benefit from 'outcomes' information, guidance or advice. Their depth of experience means they can pre-empt or foresee gaps or errors, the consequences of which may not be obvious to those with less experience.</p>
<p><b>FOCUS AREA 2.7.6</b></p> <p><b>Provides information, guidance or advice about the merits of a claim or case</b></p>	<p><b>GRADUATE STANDARD 2.7.6.1</b></p> <p>Graduates adhere to scripts when providing 'merits' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.6.1</i></p> <p><i>The scripts provided to them by their workplace.</i></p>	<p><b>ACCREDITED STANDARD 2.7.6.2</b></p> <p>Even if they have scripts, Mediators make small changes to their 'merits' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.6.2</i></p> <p><i>They might provide additional detail on common mistakes that parties make when trying to assess the strengths and weaknesses of their claim or clarify other common 'merits' misconceptions if they arise.</i></p>	<p><b>ADVANCED STANDARD 2.7.6.4</b></p> <p>Advanced mediators draw on their experience to identify critical points at which parties may benefit from 'merits' information, guidance or advice.</p> <p><i>ILLUSTRATION 2.7.6.4</i></p> <p><i>In consultation with the parties, they establish their appetite for 'merits' information, guidance or advice and, if required, establish permission to be frank if the 'merits' information, guidance or advice is unfavourable.</i></p>	<p><b>MASTER STANDARD 2.7.6.4</b></p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense when parties might benefit from 'merits' information, guidance or advice. Their depth of experience means they can pre-empt or foresee gaps or errors, the consequences of which may not be obvious to those with less experience.</p>
<p><b>FOCUS AREA 2.7.7</b></p> <p><b>Provides information, guidance or advice on the cultural, psychological or social context</b></p>	<p><b>GRADUATE STANDARD 2.7.7.1</b></p> <p>Graduates adhere to norms or scripts when providing 'socio-cultural or psychological' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.7.1</i></p> <p><i>Words or phrases passed down to them through the social or cultural group or scripts provided by their workplace.</i></p>	<p><b>ACCREDITED STANDARD 2.7.7.2</b></p> <p>Even if they have norms or scripts, Mediators make small changes to their 'socio-cultural or psychological' information, guidance, or advice.</p> <p><i>ILLUSTRATION 2.7.7.2</i></p> <p><i>They might provide additional detail to ensure everyone is fully informed or clarify common 'socio-cultural or psychological' misconceptions if they arise.</i></p>	<p><b>ADVANCED STANDARD 2.7.7.4</b></p> <p>Advanced mediators draw on their experience to identify critical points at which parties may benefit from 'socio-cultural or psychological' information, guidance or advice.</p> <p><i>ILLUSTRATION 2.7.7.4</i></p> <p><i>In consultation with the parties, they establish their appetite for 'socio-cultural or psychological' information, guidance or advice and, if required, establish permission to be frank if the 'socio-cultural or psychological' information, guidance or advice is unfavourable.</i></p>	<p><b>MASTER STANDARD 2.7.7.4</b></p> <p>Master mediators are thought leaders or innovators in this area. They quickly sense when parties might benefit from 'socio-cultural or psychological' information, guidance or advice. Their depth of experience means they can pre-empt or foresee gaps or errors, the consequences of which may not be obvious to those with less experience.</p>

# CPD HOURS

ATTRIBUTES	FOCUS AREAS	MIN HRS – TYPES OF ACCREDITATION	MAX HRS
4.1 Engages in reflective practice	4.1.1 Engages in individual self-reflection	No Min	All: 15 Roleplays: 8
	4.1.2 Participates in professional supervision with a more knowledgeable or experienced practitioner	Provisional: 12 Mediator or Specialist Practitioner: 6	
	4.1.3 Participates in peer supervision or debriefing with a similarly knowledgeable or experienced practitioner (including role plays)	All: 4	
	<b>* MSB encouraged to engage an expert to develop models and templates for effective self-reflection and professional supervision</b>		
4.2 Engages in professional learning	4.2.1 Develops and implements a professional learning plan	N/A – PROCEDURAL TASK	N/A – SEE LEFT
	4.2.2 Participates in workshops or other structured learning activities related to mediation ('workshops')	No Min	All: 20
	4.2.3 Participates in workshops or other structured learning activities related to other forms NDR ('workshops')	Advanced and Specialist: 5 (OR 4.2.4)	

## APPENDIX 6 – CPD HOURS

	4.2.4 Participates in workshops or other structured learning activities related to another profession, area of expertise or interest ('workshops related to my other area') (e.g. lawyer, psychologist, or other professional disciplines; cultural or psycho-social expertise; interest in the environment or local community)	Advanced and Specialist: 5 (OR 4.2.3)	All: 10
	4.2.5 Attends conferences related to mediation or other forms of NDR	No Min	All: 5
	4.2.6 Engages in self-guided learning (e.g. reads articles, listens to podcasts and other self-directed learning activities)	No Min	All: 5
4.3 Contributes to the field	4.3.1 Delivers professional presentations or writes articles or other publication types such as blogs, reports, submissions, etc. ('deliver presentations or write articles')	Master: 2.5 (OR 4.3.4)	All: 15
	4.3.2 Coaches, mentors or supervises other practitioners	Master: 10	
	4.3.3 Participates in research related to mediation or other forms of NDR	Advanced and Specialist: 2	
	4.3.4 Conducts research into mediation or other forms of NDR	Master: 2.5 (OR 4.3.1)	

Table 1: Continuing professional development hours by accreditation type



# ENDNOTES

- <sup>i</sup> 'What is Mediation?', *Mediator Standards Board* (Webpage) What is the National Mediator Accreditation System (NMAS)? <<https://msb.org.au/about-mediation#:~:text=What%20is%20the%20National%20Mediator,and%20assessment%20for%20all%20mediators>>
- <sup>ii</sup> 'Uncitral Notes on Mediation', *The Singapore Convention* (Webpage) Key Documents <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/V21/022/68/PDF/V2102268.pdf?OpenElement>>
- <sup>iii</sup> 'Guide to Enactment and the Use of Model Law', *The Singapore Convention* (Webpage) para 9 <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/V21/021/41/PDF/V2102141.pdf?OpenElement>>
- <sup>iv</sup> Adapted from Danielle Hutchinson and Emma-May Litchfield, '2nd Key -Data: Run the Global Pound Conference Every 5-7 Years' in Michael Leathes, *Seven Keys to Unlock Mediation's Golden Age* (Mediate.com) <<https://www.mediate.com/2nd-key-data-run-the-global-pound-conference-gpc-series-every-5-7-years/>>
- <sup>v</sup> 'A New Era for Commercial DR which Focuses on a Party-Centric Model of Dispute Resolution', *Resolution Resources* (Webpage) <<https://resolutionresources.com.au/tag/gpc/>>
- <sup>vi</sup> Adapted from 'Conciliation: Connecting the dots' (2021) *Australian Dispute resolution Advisory Council* (Webpage), para 2.33 <[https://www.adrac.org.au/files/ugd/34f2d0\\_6a05f25a238349a79b23b2dd64efc27e.pdf](https://www.adrac.org.au/files/ugd/34f2d0_6a05f25a238349a79b23b2dd64efc27e.pdf)>
- <sup>vii</sup> Adapted from 'Elder Mediation', *Relationship Matters* (Webpage, 2021) <<https://relationshipmatters.com.au/services/elder-mediation/>>
- <sup>viii</sup> Nadja Alexander, 'The mediation metamodel: Understanding practice' (2008) 26(1) *Conflict Resolution Quarterly* 97, 107 <<https://doi-org.ezproxy.lib.rmit.edu.au/10.1002/crq.225>>
- <sup>ix</sup> Nadja Alexander, 'The mediation metamodel: Understanding practice' (2008) 26(1) *Conflict Resolution Quarterly* 97, 111 <<https://doi-org.ezproxy.lib.rmit.edu.au/10.1002/crq.225>>
- <sup>x</sup> Adapted from 'Family Dispute Resolution and Family Violence', *Australian Law Reform Commission* (Webpage) <<https://www.alrc.gov.au/publication/family-violence-improving-legal-frameworks-alrc-cps-1/11-alternative-processes/family-dispute-resolution-and-family-violence/>>
- <sup>xi</sup> Adapted from Winslade, J., & Monk, G. (2008). *Practicing Narrative Mediation* (2nd ed.). Wiley. Retrieved from <<https://www.perlego.com/book/1010156/practicing-narrative-mediation-pdf>>
- <sup>xii</sup> Adapted from 'Restorative Practices', *Australian Association for Restorative Practices* (Webpage) <<https://www.aarj.org.au/restorative-practices/>>
- <sup>xiii</sup> Nadja Alexander, 'The mediation metamodel: Understanding practice' (2008) 26(1) *Conflict Resolution Quarterly* 97, 109 <<https://doi-org.ezproxy.lib.rmit.edu.au/10.1002/crq.225>>
- <sup>xiv</sup> Nadja Alexander, 'The mediation metamodel: Understanding practice' (2008) 26(1) *Conflict Resolution Quarterly* 97, 113 <<https://doi-org.ezproxy.lib.rmit.edu.au/10.1002/crq.225>>
- <sup>xv</sup> Nadja Alexander, 'The mediation metamodel: Understanding practice' (2008) 26(1) *Conflict Resolution Quarterly* 97, 115 <<https://doi-org.ezproxy.lib.rmit.edu.au/10.1002/crq.225>>
- <sup>xvi</sup> Nadja Alexander, 'The mediation metamodel: Understanding practice' (2008) 26(1) *Conflict Resolution Quarterly* 97, 112 <<https://doi-org.ezproxy.lib.rmit.edu.au/10.1002/crq.225>>
- <sup>xvii</sup> 'Guidelines for developing effective voluntary industry codes of conduct', *Australian Competition and Consumer Commission* (Webpage) <<https://www.accc.gov.au/publications/guidelines-for-developing-effective-voluntary-industry-codes-of-conduct>>
- <sup>xviii</sup> 'Intersectionality resource guide and toolkit', *UN Women* (Webpage, 2021) <<https://www.unwomen.org/en/digital-library/publications/2022/01/intersectionality-resource-guide-and-toolkit>>
- <sup>xix</sup> 'AQF Levels and Criteria', *Australian Qualifications Framework* (Webpage, 2013) AQF Level 8 Criteria <<https://www.aqf.edu.au/framework/aqf-levels#aqf-level-8-criteria>>
- <sup>xx</sup> 'The AQF Second Edition January 2013', *Australian Qualifications Framework* (Webpage) <<https://www.aqf.edu.au/framework/australian-qualifications-framework>>
- <sup>xxi</sup> 'Intersectionality Resource Guide and Toolkit', *UN Women* (Website), 2021, pg14 <<https://www.unwomen.org/en/digital-library/publications/2022/01/intersectionality-resource-guide-and-toolkit>>

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- <sup>xxii</sup> 'Skillset details', *Training.Gov.Au* (Webpage), CHCSS00110 - Mediation Skill Set (Release 1)  
<<https://training.gov.au/Training/Details/CHCSS00110>>
- <sup>xxiii</sup> See [Australian Qualifications Framework website](#)
- <sup>xxiv</sup> Qualification Details, Training.Gov.Au (Webpage), Tae40116 - Certificate Iv In Training And Assessment (Release 3)  
<<https://training.gov.au/training/details/tae40116>>
- <sup>xxv</sup> [Part 1 Effectiveness Survey](#)
- <sup>xxvi</sup> Part 2 NMAS Review Survey (forthcoming)
- <sup>xxvii</sup> NMAS Part I - Introduction  
<<https://msb.org.au/themes/msb/assets/documents/national-mediator-accreditation-system.pdf>>
- <sup>xxviii</sup> Part 2 NMAS Review Survey (forthcoming)
- <sup>xxix</sup> 'Better Regulatory Framework', *State of Victoria, Department of Health and Human Services* (Electronic document, March 2018) 14 < <https://www.dhhs.vic.gov.au/better-regulatory-practice-framework> >
- <sup>xxx</sup> NMAS Part I - Introduction  
<<https://msb.org.au/themes/msb/assets/documents/national-mediator-accreditation-system.pdf>>
- <sup>xxxi</sup> Melbourne Graduate School of Education, *Assessment Research Centre Annual Report 2021* (Report, February 2022) 36 <[https://education.unimelb.edu.au/\\_data/assets/pdf\\_file/0005/4133381/6067\\_UOM\\_RFQ06184-ARC-Annual-Report-2021\\_v4\\_Final.pdf](https://education.unimelb.edu.au/_data/assets/pdf_file/0005/4133381/6067_UOM_RFQ06184-ARC-Annual-Report-2021_v4_Final.pdf)>
- <sup>xxxii</sup> 'SIMI's Mission Statements', *Singapore International Mediation Institute* (Website),  
<<https://www.simi.org.sg/About-Us/Organisation-Information/About-SIMI>>
- <sup>xxxiii</sup> [Part 1 - Effectiveness Survey NMAS Review Report and](#) NMAS Review Survey. See also  
<https://www.psc.gov.au/research-library/professions>
- <sup>xxxiv</sup> 'Intersectionality resource guide and toolkit', *UN Women* (Electronic document, 2021) 13-14  
<<https://www.unwomen.org/sites/default/files/2022-01/Intersectionality-resource-guide-and-toolkit-en.pdf> >
- <sup>xxxv</sup> 'Intersectionality Resource Guide and Toolkit', *UN Women* (Website), 2021, pg14  
<<https://www.unwomen.org/en/digital-library/publications/2022/01/intersectionality-resource-guide-and-toolkit>>