



Northern Independent Mediation

NIM Code of Conduct

February 2017 Version 1



Code of Conduct for NIM Mediators & Staff

Objective

Northern Independent Mediation expects the highest standards of its mediators and staff. All staff are expected to act with probity and integrity in carrying out their work.

NIM has a strict code of conduct that sets out its expectations of its mediators, staff and associates. As a member of the Civil Mediation Council, NIM is committed to ensuring the highest standards in mediation practice and training. By committing to this goal, the profession of mediation will continue to be held in high regard and grow in the future, to help our clients we must be held to high standards of professionalism and probity in everything we do.

As such all mediators and staff who work with NIM are required to agree to this code of conduct, and to its enforcement by way of NIM's Complaints & Disciplinary Policy if it is breached.

Who is bound by this policy

Every mediator, staff member and external associate who works under Northern Independent Mediations service is bound by NIM's Code of Conduct and the complaints & Disciplinary policy.

Introduction

This policy was approved on the 28th February 2017 by the board of directors

Responsible Director

The Director responsible for this policy is Mr Alexander James McCulloch

Signed: 

Date: 28th February 2017

Code of Conduct

Acceptance of other codes of conduct

1. By agreeing to this code of conduct the mediator also agrees to adhere to the other codes of conduct approved by the company as outlined in 2 in addition to this code of conduct.
2. The codes of conduct currently approved by the company are;
 - The EU Code of Conduct for Mediators
 - The CMC Code of Good Practice for Mediators
3. The codes referred to in 2 are to be read as meaning the latest version of the code as published. Where the code has been updated since the drafting of this document, 2 is to be read as applying to any future revision of that document unless otherwise stated.
4. Any breach of the codes in 2 are to be seen as a breach of this code of conduct and so;
 - a. Any procedure which must be followed for breach of this code must be followed for a breach of a code specified in 2
 - b. Any outcome which can be imposed for a breach of this code can be imposed for a breach of a code specified in 2

Adherence to the code of conduct

5. By agreeing to be a member of any of NIM's mediation panels or sub-panels or in holding a company office or on taking a contract of employment with NIM the mediator agrees to be bound by this code of conduct.
6. Whilst holding any of the positions noted in 5 the mediator will be seen as continuing to agree to be bound by this code of conduct
7. A signature or written acceptance is not required in order to be bound by this code of conduct.

Publishing this code of conduct

8. A copy of this code of conduct will be published on NIM's website which can be found at www.Northernindependentmediation.com
9. A copy of this code of conduct will also be available in the company records and at the registered office address unless a SAIL address has been registered in which case a copy will be maintained there.
10. Any member of the company or public can request a copy of this code of conduct at any time by emailing admin@NIMediation.com

Notification of breach of the code

11. The mediator will notify NIM of any breach of this code of conduct at the earliest opportunity to do so

Probity

12. The mediator must always represent their ability, experience and qualifications accurately in doing so the following are expressly forbidden;
 - a. Falsely claiming to hold qualifications
 - b. Claiming that they are more experienced than they are
 - c. Claiming they have the ability to conduct any mediation where they do not.
 - d. Create any article that could be used in misleading anyone as to 12
 - i. Seeking another to create such an article on their behalf
 - ii. Claiming to possess such an article whether real or not
 - e. a-d are not the only methods by which the mediator can be seen as misleading others as to their ability, experience and qualifications. Any intentional action that does so will be seen as being in breach of this section.
13. The mediator must notify the company if they possess any criminal convictions other than minor road traffic offences, this is due to the nature of the work undertaken they are likely to come into contact with vulnerable persons as part of NIM's activities.
14. The mediator must notify the company if they are under investigation for any criminal offence other than minor road traffic offences at the earliest opportunity.
15. The mediator must not misrepresent their position or membership within NIM
16. The mediator must be honest and act with utmost probity when conducting work as a mediator or for NIM

Competence

17. The mediator must be competent to conduct mediations, for the purposes of NIM, for civil mediations this is;
 - a. Have passed a CMC accredited Civil & Commercial Mediation Training Course
 - b. Have undertaken the correct number of observations to sit on a CMC registered panel as published by the CMC
 - c. Have undertaken annual continuing professional development as set by the CMC in its requirements for sitting on registered panel.
 - d. Have observed at least one mediation or role-play per year
 - e. Keep a portfolio which can be inspected at any time by NIM to confirm the above
18. Inform NIM where they do not meet the above requirements at the earliest opportunity

Insurance

19. Have in place professional indemnity insurance of sufficient value to cover the undertaken work. NIM provides insurance cover for all its mediators, in order to have cover in place the mediator must;
 - a. Notify NIM of the mediation session in advance
 - b. Sign a Mediators agreement with NIM in advance of conducting the session
 - c. Log all communications on NIM's database system
 - d. Comply with this code of practice
 - e. Notify parties that the mediation is conducted under the auspices of NIM
 - f. Notify NIM of any disputes or potential claims within 24 hours of them becoming aware

Advertising of Services

20. When advertising services the mediator must do so professionally, in a dignified manner and honestly. A misrepresentation in advertising will also be seen as a breach of 12,15 & 16
21. The mediator may advertise their services as a NIM mediator whilst intending to undertake any mediation requests as a NIM mediator only. Where working as a solo Practitioner/intending to undertake a mediation request in their own name only, a mediator must not claim to working as a NIM mediator whether they are a panel member or not. This is so as to stop a client from falsely believing they could bring a claim against the company amongst other reasons.

Diversity and Equality Policy

22. The mediator is required to adhere to NIM's Equality policy as published. In addition, they are required to be aware of and sensitive to diversity, equality, and anti-discrimination issues at all times.

Self-determinative Mediation

23. NIM holds the view of the CMC that mediations should operate under the guiding principle of party self-determination. Therefore, all mediation conducted by NIM should be conducted as facilitative mediation.
24. With particular reference to arbitration, NIM values the role that arbitration plays in alternative dispute resolution therefore;
 - a. Where arbitration is considered, the decision of whether to undertake arbitration or mediation must be made prior to the commencement of a session
 - b. Mediation should never take place under the Med-Arb model. That is there should be no point whereby a mediator changes to the role of an arbitrator mid-session or vice versa.

Ability to carry out mediations

25. The mediator should only accept a mediation personally where they are able to undertake that session, particular thought should be given to;
 - a. Whether they have sufficient time to prepare for, conduct, and if necessary, follow up the mediation.
 - b. Whether they are sufficiently experienced to undertake the session.
26. Where the mediator is unable to carry out the mediation personally, they are able to pass the mediation to other members of NIM's panel with the consent of the clients.

Conflicts of Interest

27. The mediator must notify clients of potential conflicts of interest. Where a potential conflict of interest exists a party may only carry out a mediation where they are certain that they can remain impartial and that the potential conflict could not reasonably be seen to affect the parties' impartiality.

Settlement Rates

28. The mediator must be aware of the potential impact of settlement rates and ensure that they are never influenced by a desire to maintain or increase their personal settlement rate or any settlement rate.

Confidentiality

29. All information disclosed in reference to the mediation process must be maintained confidentially, this includes all communications made to the mediator by those involved in the mediation process, unless otherwise agreed by them or required by law, and shall promote understanding among the participants regarding the extent to which they shall remain confidentiality of information obtained in mediation.
30. The mediator will ensure that confidentiality is maintained in the storage of information before mediation and disposal after mediation of mediation records, notes and files.
31. The mediator will use NIM's database system to record all information obtained outside of the mediation session and should not keep paper copies longer than is necessary to upload them to our system. All documents should be securely destroyed following the mediation session, NIM will take sole responsibility to secure remove electronic records properly recorded on our database system.

Feedback and complaints

32. All participants should be notified of NIM's complaints procedure and that they will be sent feedback forms following the session so that they can give honest feedback about their experience.

Administration of the mediation session

33. All participants should be given the opportunity to ask questions of the mediator at the start of or prior to the mediation session.
34. Participants should be informed of the mediation process including how information disclosed to the mediator in private sessions (caucus) will be treated.
35. All mediations must be conducted under a signed mediation agreement with all participants including that of participant supporters and observers having signed that agreement.
36. The mediator must ensure that prior to the commencement of the mediation the participants have understood and expressly agreed to the terms and conditions of the mediation agreement including in particular any applicable provisions relating to obligations of confidentiality.
37. The mediator must be confident that the participants understand the characteristics of the mediation process and the role of the mediator and participants within it.

The Mediation Session

38. All mediations must be conducted impartially as between participants and as regards outcome.
39. The mediator must never have a vested interest in any outcome
40. During the mediation the mediator must never knowingly misrepresent the facts or matter in the course of the mediation.
41. The mediator shall conduct the proceedings in an appropriate manner, taking into account the circumstances of the case, including possible power imbalances and the rule of law, any wishes the participants may express and the need for a prompt settlement of the dispute.

Fairness of the Process

42. The mediator shall ensure that all participants have adequate opportunities to be involved in the process.
43. The mediator if appropriate shall inform the parties and may terminate the mediation if;
 - a. A settlement is being reached that appears unenforceable or illegal, having regard to the circumstances of the case and the competence of the mediator for making such an assessment, or;
 - b. The mediator considers that continuing the mediation is unlikely to result in settlement,

Terminating the session

44. The mediator must terminate the session where it becomes apparent that;
 - a. Parties are present in bad faith and it is apparent that this will remain the case
 - b. Information is presented or agreements are sought where the discussion includes;
 - i. Criminal Activity
 - ii. Safeguarding concerns or risks of harm
 - iii. Organised crime
 - iv. Tax Fraud
45. And as per 43a and 43b

Giving Legal Advice

46. The mediator must not give legal advice to any participants

Mentoring and New Mediator Opportunities

47. Mediators should with reference to their ability and the willingness of the participants offer opportunities to newly-trained mediators to observe their mediations.

Peer Review and Mentoring

48. Mediators should take advantage of the peer review opportunities and mentoring available at NIM.

Legal Representation and Knowledge

49. The mediator shall take all appropriate measure to ensure that any understanding is reached by all parties through knowing and informed consent and that all parties understand the terms of the agreement.
50. Every participant should be aware of the option to secure legal advice on any aspect of the session, with particular reference to any agreement reached.

Definitions

The mediator: Any one undertaking the role of mediator, staff, or office holder of the company.

Participants: Any party, client, their representative or supporter

NIM: Northern Independent Mediation Limited 10635905

The Company: Northern Independent Mediation Limited 10635905