



Complaints Procedure

This document outlines the Complaints Procedure for the College of Mediators and covers the following areas:

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1. Statement of purpose

The College of Mediators [the College] sets, promotes, maintains and improves the highest standards of professional conduct for those practising and working in any field of mediation. This Complaints Procedure aims to help maintain and encourage those high standards. It sets out when and how complaints relating to a mediator's practice should be dealt with by the College.

All practising members of the College are subject to this procedure and are made aware of it; it applies to individual practising members, and former members, of the College only.

A copy of this procedure is also made available to any person notifying us that they wish to make a complaint about a College member.

As a general principle, and in the spirit of mediation, we support the informal resolution of complaints by agreement of those concerned, wherever possible. This document outlines the formal process to follow for complaints about College members where this has not been achieved.

As a Member Organisation (MO) of the Family Mediation Council [FMC], the College Complaints Procedure complies with the standards laid down in the FMC Manual of Professional Standards and Self-Regulatory Framework, and the FMC Code of Practice.¹

2. Application of the Complaints Procedure

2.1 The College requires that all mediation providers have a clear, accessible complaints procedure in place, which is made known to users of their services as a matter of course in the initial stages of the mediation process. This will be available either verbally or, preferably, in writing. Every attempt should be made to resolve complaints at a local level through these procedures before the College becomes involved. Responses to complaints should be dealt with promptly and directly, in the first instance by the mediator[s] concerned and, in the second instance, by their mediation service or Professional Practice Consultant (PPC)/supervisor.

2.2 In addition to 2.1 above, local procedures will be considered to be exhausted where there has been no response to a complaint by the mediator or the service.

2.3 Members should also give information about a complainant's right to escalate their issue to the College once these avenues have been exhausted.

2.4 In the case of family mediation providers, this information should also include details of the right of the complainant or the mediator to appeal to the FMC if they are not satisfied that these procedures have been followed.

Where family mediators are members of more than one MO of the FMC, their complaints procedure should make clear which route complainants are advised to follow in order to make a complaint.

2.5 Any Agreement to Mediate signed by the participants in a mediation should contain a clause agreeing to the release of information contained in their file for the purposes of investigation if a complaint is initiated with the College. In the case of family mediation this should include the release of the same information to the FMC in the event of an appeal.

2.6 If the issue has not been resolved locally, a representative of the College will, in the first instance, attempt to address the matter informally by agreement.

¹ See the FMC Manual of Professional Standards and Self-Regulatory Framework (2014): Part 5: Complaints, disciplinary processes, withdrawal of accreditation p36ff.

2.7 Where it is not possible to reach an informal agreement at a local level between the complainant and the College member, we will, where appropriate, instigate the formal Complaints Procedure. An independent panel consisting of members who have no prior involvement in the case will be appointed to investigate the complaint and consider:

- i) whether or not the complaint is upheld
- ii) whether there are any recommendations for future improvements in practice to the member concerned
- iii) whether any remedial or disciplinary actions are required

2.8 Where remedial or disciplinary actions are required, the same panel will decide on the appropriate steps to be taken.

3. Definition of a complaint

A complaint is an expression of dissatisfaction with the service provided by a member of the College in relation to their mediation practice. In particular, where the complainant is of the view that there has been a breach of the Code of Practice of the College or of the FMC, the matter will be regarded as a complaint.

4. Who may make a complaint

Complaints may be made by the following people:

- i. mediation clients, including persons attending mediation information and assessment meetings or other initial consultations face to face or by phone
- ii. other mediators, including PPCs
- iii. others directly affected by or disadvantaged by their dealings with the member's actions as a mediator
- iv. people acting, with permission, on behalf of parties to mediation who do not have either mental or physical capacity to participate in the process without support

5. Who complaints may be about

Complaints falling under this procedure may be made about:

- i. mediators
- ii. PPCs or supervisors (in relation to their mediation practice or their supervision practice)
- iii. former members of the College, *if* the matter occurred during the period of their membership and subject to reasonable time limitations. In the event that a member resigns after a complaint has been made, during the investigation of a complaint or after disciplinary actions have been recommended, the process will nevertheless proceed to a conclusion.

6. Circumstances in which the College will not initiate a complaint

We will not invoke the complaints procedure where:

- i. the issue is regarding restitution of mediation fees
- ii. none of the parties involved has attempted to resolve the issue
- iii. the complaint is considered to be vexatious
- iv. the complaint is considered to be purely personal on the part of the complainant, i.e. concerning mediation outcomes rather than process

7. How an initial complaint can be made to the College

7.1 A potential complainant should approach the Co-ordinator of the College in the first instance

- by phone using the following number: 0845 65 85 258
- by email to the College to the following address: admin@collegeofmediators.co.uk

If other means are needed, we will be pleased to give assistance if asked to do so.

The College will deal as promptly as possible with all potential complaints received and will respond to the initial query within two weeks.

7.2 The Co-ordinator will listen to the complainant and make a record of:

- the name of the complainant
- the name[s] of the mediator[s] concerned
- the nature of the complaint.
- They will enquire as to how far the local complaints procedure has been applied.
- They will decide whether or not it is appropriate for the College to treat the matter as a complaint.

7.3 If the local procedure has NOT been observed, as outlined in 2.1, the Co-ordinator will

- advise the complainant of the need to do this and of our complaints process
- seek the complainant's permission to inform the member of the issue
- agree a follow up process with the potential complainant
- contact the member and inform them of the issue, as agreed with the complainant
- ensure the member's understanding of our Complaints Procedure and agree a follow up process with them.

7.4 If the complainant and the mediator both agree that the matter is resolved at this stage, it will be recorded as closed.

7.5 If a local procedure involving the complainant, the mediator and the PPC/supervisor has been unsuccessfully attempted, the Co-ordinator will offer to support the parties to resolve the matter informally through a facilitated exchange or through mediation.² They will approach a member of the College's Board of Directors (Board) or the Professional Standards Committee (PSC) to facilitate this.

7.6 If the complainant and the mediator undertake a facilitated exchange or mediation and both agree that the matter is resolved at this stage, it will be recorded as closed.

7.7 If the matter remains unresolved, the College will initiate the formal Complaints Procedure.

² This may be conducted by the Co-ordinator themselves or a member of the Board or PSC as appropriate

8. The formal Complaints Procedure and the appointment of a panel

8.1 The College aims to deal with formal complaints within three months of their receipt.

8.2 The Co-ordinator will send a copy of the Complaints Procedure and the Code of Practice to the complainant and the member.

8.3 The complainant will be asked to give a detailed written account of the nature of the complaint.

8.4 Upon receipt of a full outline of the complaint by email, we will acknowledge receipt by email within seven days.

8.5 The mediator[s] and their PPC[s] will be informed that the written complaint has been received and a copy of the complaint will be sent to them for comment.

8.6 A response to the complaint from the mediator[s], in consultation with their PPC[s], will be expected in writing, normally within twenty-eight days of the date of the email from the College. We will ask for an explanation of any response made after twenty-eight days.

8.7 The Co-ordinator will ask for volunteers from the Board and the PSC to form a panel of up to four members. Panel members will have no previous knowledge of the situation and will investigate the complaint without bias or presupposition.

8.8 The Co-ordinator will send all the relevant written information received and a record of any discussions and actions taken to all members of the Complaints Panel within seven days.

8.9 The panel will consider all relevant information and meet to consider their decision within fourteen days of receiving the written information about the complaint.

8.10 The outcome of the complaint will be recorded on a form (Outcome of Complaints Investigations Form) and sent to the complainant, the mediator and their PPC within two days of the decision. A copy will be sent to the Co-ordinator at the same time.

8.11 Should the complaint be upheld and it is necessary that action is required of the member, the same panel will decide on the necessary recommendations and any remedial actions. These will also be recorded on a separate form (Recommendations and Actions Following a Complaint) and a copy sent to the member, their PPC/supervisor and, in the case of a family mediator, the FMC.

9. The purpose of the College Complaints Panel

9.1 The Complaints Panel will be appointed from members of either the College's Board, the PSC or both, and will be composed of a maximum of four people.

9.2 The purpose of the panel is to investigate the complaint; make a decision as to whether or not it should be upheld; make recommendations, where appropriate, to improve future practice on the part of the mediator; if necessary, take steps where it is established that there has been a breach of the College's Code of Practice.

9.3 The College cannot prevent a mediator from continuing to practise. We can, however, terminate the membership of a mediator where the issue is considered to be serious enough to do so. The circumstances in which this might occur are:

- where allowing the member to continue to practise would constitute a significant risk to clients, members of the public, or other professionals or co-workers

- where there has been deliberate dishonesty or gross negligence on the part of the member

In the case of family mediators, we must also inform the FMC when a member's membership has been suspended. On receipt of this information, the FMC would consider the removal of the member from their accreditation status. As an MO of the FMC, we must share relevant information, where it is legal to do so, with other MOs and may take account of decisions previously made. (see FMC Standards Framework Manual, Part 5.1.c p39)

9.4 Recommendations may include suggestions such as:

- reviewing existing policies and practices of the member
- undertaking additional training in a specific aspect of mediation practice
- addressing specific practice issues in supervision

9.5 Further actions may include:

- requiring additional training and providing evidence that it is undertaken
- requiring that practice issues are addressed in supervision and providing evidence that this has occurred
- revoking the membership of the mediator in question
- informing the FMC
- issuing a formal warning of the above

9.6 Complaints are to be investigated on a case by case basis and panel recommendations are to be made without reference to previous complaints against the same mediator.

9.7 However, where there have been several complaints about the same mediator, and the mediator has not followed recommendations or changed their practice, or where formal warnings have previously been issued, the Co-ordinator may draw the situation to the attention of the Board. In this event, the following procedure will apply:

9.7.1 The Co-ordinator will keep a general record of formal investigations, panel recommendations and any information about the implementation of these recommendations.

9.7.2 In circumstances where the Co-ordinator is aware that the same member has been the subject of several complaints and this gives cause for concern, they may bring it to the attention of the Board. The circumstances that might trigger this would be:

- three or more previous complaints against the same member that have been upheld.
- knowledge of recommendations made by previous panels that the member has not acted upon.
- the Co-ordinator is aware of concerns regarding the member's conduct in dealing with the Complaints Procedure.

9.7.3 The Co-ordinator will inform the member in question that they have found it necessary to bring the situation to the attention of the Board and invite a response.

9.7.4 The Board will convene a special meeting to consider any further action.

9.7.5 In circumstances where Board members are of the view that the member has repeatedly acted outside the Code of Practice and has, on investigation, failed to change their practice, it is within their power to determine that the mediator's membership of the College is brought to an end. In the case of a family mediator, a report to this effect will be made to the FMC.

10. Right of appeal

10.1 If either the complainant or the mediator are not satisfied with the outcome of the investigation they may appeal, if they are of the view that

- the procedures set out in this policy have not been followed
- the outcome and the requirements of the panel are unfair or disproportionate

10.2 The appellant must set out their objections in writing and email them to the Co-ordinator within seven days of being informed of the outcome of the panel.

10.3 The Co-ordinator will respond by email within seven days and will appoint a new panel of three people from the Board or the PSC who have had no prior involvement in the case.

10.4 The Co-ordinator will provide the appeal panel with all the information gathered about the complaint up to that point.

10.5 One member of the panel will be asked to:

- identify the issues
- speak to the complainant and the mediator
- review the process and the outcome
- report back to two other people, neither of whom will have been on the original panel

10.6 The appeal panel will then make a decision, within one month of their appointment, as to whether the case needs to be re-opened.

10.7 The appellant will be informed by email of the decision within two days.

10.8 Where the complaint involves a family mediator and either the complainant or the mediator does not feel that the College has followed the appeal procedure as it is laid in this document, the matter can be referred to the FMC.

The FMC will limit its consideration to two aspects:

- i) whether the College has complied with the procedures set out in this policy document and in the *FMC Manual of Professional Standards and Self-Regulatory Framework (2014)*.
- ii) whether any actions required are fair and proportionate.

11. Record keeping

Records of complaints and appeals form part of the College's records and the Co-ordinator will keep these records for a minimum period of six years, after which the records may be permanently destroyed.

12. Guidelines for using this Complaints Procedure

12.1 No charge will be made for using this Complaints Procedure.

12.2 We will make every effort to ensure disputes are dealt with fairly and transparently. In particular, we are mindful of the risk of a conflict of interest at every level of the procedure. All of those involved are required to declare any conflict of interest that may become apparent and to withdraw from the process if necessary.

12.3 The Co-ordinator, or other representative of the College undertaking the preliminary stages of the procedure and the attempts at informal resolution, will not participate as a member of the Complaints Panel in the formal consideration of the complaint.

12.4 We will ensure the confidentiality of the investigation process and will act sensitively towards the member concerned. In the case of family mediators, however, where the complaint is upheld and is considered serious enough to revoke the membership of the mediator in question, we are under an obligation to inform the FMC.

12.5 A complaint must be made within three months of the practice from which the complaint arises. If a complaint is made after this time limit an explanation for the delay must be given and the College will have discretion to take this into account.