



## **Minimum Requirements for Mediators' Own Complaints Processes**

- 1. Mediators are required to have in place and follow a complaints procedure which**
  - a. Allows a client, a former client or a qualifying third party (see below) to make a complaint that relates to breaches of the FMC's Codes of Practice or Standards Framework that occurred within the last three months. For avoidance of doubt, complaints that relate to the way a mediation was conducted as a whole, the date the three months runs from is the last mediation session. Complaints that appear to be vexatious or of a purely personal nature do not have to be investigated (see below).
  - b. States a timeframe within which all complaints will be acknowledged. This must be no more than 10 working days of receipt.
  - c. States that all complaints will be investigated and responded to within a timeframe. This must be no more than 30 working days of receipt. The procedure may specify that on occasions further time may be required, in which case the complainant should be notified in writing.
  - d. Allows for mediation of the complaint where both the complainant and mediator wish this to proceed.
  - e. Explains any further procedures if these are available, including time frames for using these and getting a response.
  - f. Explains that if the response is not accepted, the complainant can ask the FMSB to consider the complaint if certain criteria are met, and provide details of how to do this.
- 2. Mediators are required to have in place a privacy policy/notice which allows information held by the mediator to be shared with the FMSB in the event that a formal complaint is made to the FMSB, to which that information pertains.**
- 3. Mediators are required to include a copy of or a link to their complaints policy, which meets the minimum standards set out above, in the Agreement to Mediate.**
- 4. Mediators are required to make their privacy notices and complaints policies available on their websites so that they are readily accessible by members of the public.**

**FMSB**

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## **Qualifying third parties**

The following qualify as third parties who can make a complaint against a mediator:

- A prospective client who has been directly affected by a mediator's professional behaviour;
- A person who has been invited to participate in a mediation process, for example another professional who attends a mediation.

For the avoidance of doubt, it is common for a mediator to contact a potential mediation participant after seeing the other potential mediation participant. Complaints about a mediator making contact with a potential participant do not therefore need to be investigated by mediators and will not be accepted by the FMSB.

Likewise, mediators may sign court forms to say one person has attended a Mediation Information and Assessment Meeting (MIAM) without notifying a potential second mediation participant or inviting them to attend MIAM themselves. Complaints about a mediator not making contact with a potential participant do not therefore need to be investigated by mediators and will not be accepted by the FMSB.

Please note that neither mediators nor the FMSB will be able to disclose any information to you that is confidential between the mediator and the mediation participant(s). It is therefore normal that as a third party, you will only receive a limited amount of information in response to your complaint, even in circumstances where it is considered by the FMSB.

## **Complaints that appear to be vexatious or of a purely personal nature**

Complaints that appear to be vexatious or of a purely personal nature do not have to be investigated by mediators.

Complaints can be considered vexatious when:

- the purpose appears to be to intimidate, disturb, disrupt and/or unduly or unfairly pressurise the mediator or the FMSB;
- they are persistent/repetitive, and repeating the same or substantially similar complaints which have already been investigated;
- they are clearly unfounded and unsupported by evidence;
- they are irrelevant and relate to matters other than mediation;
- abusive or offensive language is used.

Complaints can be considered of a purely personal nature if they are discriminatory or focus on the personal attributes or circumstances of a mediator rather than their actions as a mediator.