



**Mediation Institute
Independent Complaint
Management Service**

**For Dispute Resolution
Professionals**

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PART 1: OVERVIEW OF THE COMPLAINT MANAGEMENT SYSTEM

What is the Mi Independent Complaints Management Service?

The Mediation Institute Independent Complaint Management Service (Mi ICMS) is a service provided by Mediation Institute to resolve complaints.

This document relates to our Independent Complaint Management Service for Dispute Resolution Professionals.

We also have an Independent Complaint Management Services for Registered Training Organisations (RTO's) and one for other organisations such as clubs, associations, and businesses.

The Independent Complaint Management Service for Dispute Resolution Professionals is offered as part of our membership services and ensures that they have access to an independent third party to refer complaints to.

The service meets the mandatory requirement of an Independent complaint management system for:

- NMAS Accredited Mediators
- Family Dispute Resolution Practitioners
- Family Group Conference Facilitators

This document describes how complaints are accepted, handled, and resolved. The intention is to resolve disputes and identify opportunities to improve practice.

The use of the independent complaint handling process assures all stakeholders of an appropriate response to complaints about mediators, family group conference facilitators and family dispute resolution practitioners who are eligible for the Mediation Institute Independent Complaint Handling Service.

Please Note: *As a service to the industry, Mediation Institute will accept complaints about any person holding themselves out to be a mediator who is not a member of Mediation Institute and direct the complaint to their complaint handling service, as is appropriate.*

We will accept the complaint and attempt to resolve the issue if no other Independent complaint handling service is found.

Mediation Institute External Complaint Management System

Objective of the Complaint Management Service

The Complaint Management Service provides a structured approach to complaint handling organised around three practical Objectives:

1. Identify and manage complaints early, in order to resolve them effectively and efficiently and avoid secondary grievances resulting from poorly managed or delayed responses to complaints.
2. Provide professional, independent investigation and dispute resolution services appropriate to the issues raised and in a way that is considered by all parties to be fair and proportionate to the complaint. These services may require a fee to be paid which is determined on a case by case basis.
3. Record and use information about complaints in an appropriate and meaningful way.

More detail about these Objectives can be found in [section 3](#) of this document.

Consequences of a Substantiated Complaint

In situations where a complaint is upheld, we have authority to take a range of actions depending on the type of dispute resolution professional. They range from a conversation, a suspension, and conditions on reaccreditation to cancellation of accreditation.

NMAS Mediators

Mediation Institute is a Recognised Mediator Accreditation Body (RMAB), and we have an obligation to consider, when a complaint is substantiated, whether the members accreditation under the National Mediator Accreditation System (NMAS) should be cancelled or suspended. If the decision is made to suspend an accreditation, we have the authority to apply conditions for re-instatement such as evidence of additional professional development or other evidence that the practitioner now complies with their obligations.

FDR Practitioners

Mediation Institute as an approved complaint handling body for Family Dispute Resolution (FDR) Practitioners. Where the conduct of the member is in breach of their obligations and standards, we are required to provide information to the Attorney Generals Practitioner Registration Department.

FGC Practitioners

Regulation and oversight of Family Group Conference Facilitators is not to the level of NMAS Mediators or FDR Practitioners. Failure to comply with the Mediation Institute Code of Practice or other obligations could result in cancellation or suspension of membership.

Mediation Institute External Complaint Management System

What situations does the Complaints Handling Service apply to?

The Mi ICMS is available for Mediation Institute Members

- NMAS Members are NMAS Mediators who have their NMAS Accreditation through Mediation Institute
- Practitioner Members are FDR Practitioners and Family Group Conference Facilitators who are members of Mediation Institute

All members who are using the Mi ICMS should identify in their complaint policy that Mediation Institute provides their independent complaint handling service and how a complainant can make a complaint.

This is often included as a clause on your agreement to mediate or other documentation provided at commencement of the client engagement.

Members who use the complaint handling process provided by their employer or other membership body should ensure that it is very clear to clients how to make a complaint about your services.

Who can make a complaint?

Complaints are most often made by clients of a mediator however they can be made by others about concerns that the mediator is breaching their obligations in their professional practice or public profile.

Complaints by staff or contractors may be referred to a more appropriate authority or complaint process.

We encourage enquiries by members about ethical issues or concerns to help avoid complaints.

Our service also provides information about complaint trends (de-identified) and about cancelled NMAS accreditations to the regulators.

See section 2 for more detail on the circumstances when cancellations may apply.

A core standard underpinning this service is **proportionality**. The time and resources devoted to complaints handling should be proportionate to the circumstances.

In the first instance we speak with the parties to determine the situation and the complaint may be resolved at this stage for no cost.

If further resources are required there is likely to be a cost payable by the member to cover the cost of the complaint manager. Fees are not required to be paid by claimants to avoid cost being a barrier to making a legitimate complaint about the conduct of a member.

Mediation Institute External Complaint Management System

What are complaints evaluated against?

NMAS Mediators

Complaints are evaluated against the National Mediator Accreditation System (NMAS) for NMAS Accredited Mediators.

FDR Practitioners

Complaints are evaluated against the Family Law (Family Dispute Resolution Practitioners) Regulations 2008 and practice guidance provided by the Australian Attorney Generals Department.

FGC Practitioners

Complaints are evaluated against the Mediation Institute ethical and practice standards.

All Mediation Institute Members

Mediation Institute also has a statement of Ethical Standards which provide context for complaints about dispute resolution practitioner members.

See the [Appendix](#) for a copy of the Mediation Institute standards.

What is the role of the Mi ICMS?

Our role is to provide an independent, third party to escalate disputes and complaints about services provided by the people who subscribe to our complaint handling service.

It is also intended to help maintain industry standards by providing a way for concerns about the conduct of a dispute resolution professionals and dispute resolution organisations to be raised.

It supports the process to cancel NMAS accreditation where serious breaches of standards have occurred.

PART 2: HOW COMPLAINTS ARE HANDLED

This service is designed to assist in resolving complaints made about professional services provided by dispute resolution practitioners.

Initial Contact

In some cases when the initial complaint is made the issues can be reviewed and resolved in that first instance.

If requesting information only, at this stage, complainants may be able to remain anonymous.

Complainants must provide their contact details and the name of the member in question for the complaint to proceed to the next stage.

If further investigation is required information about the member, the complainant and a general outline of the complaint will be collected.

This can be done by phone, email, or letter.

Complainants are not required to complete a specific form to make a complaint.

A Complaint Form collecting the relevant information will be completed by our office.

Mi Complaint Form

A Mi Complaint Form is completed internally by Mediation Institute staff to initiate a complaint.

The Mi Complaint Form is used to identify the issue codes (type of complaint) and consequences identified by the complainant and to move client information through the process.

The complainant will be informed that the mediator must be notified that a complaint has been made against them.

The mediator will be notified that a complaint has been made against them before a complaint manager is formally appointed.

A record of all complaints about a member will be retained in electronic format for a minimum of ten (10) years.

Mediation Institute External Complaint Management System

Complaint Manager

If a Complaint Manager (investigator) is allocated, the Mi Complaint Form will be provided to them to document progress of their investigation of the complaint.

A conflict-of-interest check is completed with the Complaint Manager to ensure that there is no conflict of interest e.g. a close collegiate relationship with the subject of the complaint or a personal relationship with the complainant.

No one other than the mediator in question, the complaint manager and Mediation Institute leadership / office staff will be informed of the complaint while a complaint investigation is underway, other than if there is the need to complete a conflict of interest check when allocating a complaint manager.

Full details of the complaint are only provided once it is determined that there is no conflict of interest.

A conflict of interest would be any situation where the Complaint Manger feels that they could not fulfil the role without bias, or a reasonable person might consider there to be a conflict of interest.

The Complaint Manager may make use of a variety of methods to develop an understanding of the issues and make their report on the complaint.

If the issue is deemed to be high risk the Complaint Manager will discuss the issues with Mi management before a decision regarding any disciplinary or other response.

Costs to the Mediator

A fee of \$150 is payable by the member if a complaint manger is allocated.

The complaint manager is authorised to spend up to two hours including reviewing documents and short interview with the complainant and the mediator.

Additional Costs

Should the complexity of the case require a longer investigation, or a mediation process is recommended fees will be discussed with the mediator who has the complaint against them, in advance of any additional costs being incurred.

Mediation Institute External Complaint Management System

Notifications to the Attorney Generals Department

Maintaining NMAS Accreditation and appropriate professional conduct are matters of interest to not only the Mediators Standards Board but also the Australian Attorney Generals Department.

Mediation Institute will inform the Australian Attorney Generals Department of any NMAS Accreditation cancellation, suspension or lapse for any member who has indicated that they are a Family Dispute Resolution Practitioner.

Information provided is:

- the name of the FDRP,
- the reason that they are no longer a NMAS Accredited mediator (lapse, suspend, cancelled)
- the effective date.
- If the suspension or cancellation related to FDR work, basic details of the outcome of the investigation will be provided.
- Further information about the suspension or cancellations of practitioner membership or NMAS Accreditation will be provided upon request.

Mediation Institute Members provide permission to share this information during application for membership.

The following information is included in all Mi application forms.

I am also applying for accreditation as a Family Dispute Resolution Practitioner or am a currently accredited FDRP. I authorise Mi to provide notice to the Attorney Generals Department in accordance with the Mi Disciplinary policy or if my NMAS accreditation lapses, is suspended or is cancelled. You will be advised by the last known contact method before any notification to the Attorney Generals Department is notified of the outcome of any disciplinary process or if your NMAS lapses

PART 3: ADDITIONAL INFORMATION

Mi Independent Complaint Handling System Strategy

The purpose of this strategy is to ensure we adopt a coordinated, consistent, and effective approach to managing complaints about members and proactively assist in preventing complaint clusters through information provided to members.

The approach we take will be most useful when it is proportionate (in terms of time, effort, and cost) to the issues raised in the complaint or dispute.

Objective 1: Identify and manage complaints quickly

Mi ICMS aims to capture basic details and determine the most appropriate approach to handling a complaint quickly and efficiently.

The target is for all complaints to be resolved or allocated a Complaint Manager within seven (7) days of the first contact by the complainant.

Measurement:

- a record is kept of the time between notification of the complaint and resolution and notification of the complaint, allocation of a Complaint Manager and resolution of the complaint.

Objective 2: Fair and proportionate

Mi ICMS offers a professional, independent investigation and dispute resolution service appropriate to the issues raised that is considered by all parties to be fair and proportionate to the complaint.

The target is that complainants and members surveyed about their experience of the complaint handling service indicate that they are satisfied or very satisfied.

Measurement:

- 80% or more of users of the service say that they are satisfied or very satisfied.
- That all responses from users of the service saying they are unsatisfied or very unsatisfied are reviewed for improvement opportunities or the need to re-open complaints.

Mediation Institute External Complaint Management System

Objective 3: Appropriate use of information about complaints

Mi ICMS makes appropriate use of information from complaints and the outcome of investigations into complaints.

The target is that a record of all documented complaints is kept, and information distributed to stakeholders in an appropriate way.

Measurement:

- Data is collected to identify the types of complaints and outcomes. This information is de-natured and periodically shared with members for educational purposes
- Complaint information (de-natured) is used in training for members and Complaint Managers on ethical conduct and best practice
- Cancellations of NMAS Accreditation are processed according to requirements with identifying information about the mediator involved provided only to those organisations with a legitimate right to that information. The organisations include MSB, others (upon request) and the Attorney Generals Department

Review strategy

The Mi ICMS is reviewed against the Self Audit Checklist annually unless any major changes occur to the underlying practice standards or legislation.

Any major changes will trigger a full review of the service and associated documents, forms, and websites.

REGULATORY AND POLICY FRAMEWORK

This Plan has been formulated to help us resolve disputes in a cohesive manner in compliance with the following regulatory and policy requirements:

NMAS Accredited Mediators

- NMAS Accreditation Standards www.msb.org.au

Family Dispute Resolution Practitioners

- Family Law (Family Dispute Resolution Practitioners) Regulations 2008_ <https://www.legislation.gov.au/Details/F2009C00158>
- Family Law Act 1975 <https://www.legislation.gov.au/Details/C2016C01106>
- Family Law Rules 2004 <https://www.legislation.gov.au/Details/F2017C00029>
- Federal Circuit and Family Court of Australia – Central Practice Direction – Family Law Case Management <https://www.fccoa.gov.au/fl/pd/fam-cpd>
- Attorney Generals Department Fact Sheets_ <https://www.ag.gov.au/FamiliesAndMarriage/Families/FamilyDisputeResolution/Pages/Foraccreditedfamilydisputeresolutionpractitioners.aspx>

Mi STAFF ROLES AND RESPONSIBILITIES

Responsibilities	Resolution at this stage
Role – Mediation Institute Office staff	
<ul style="list-style-type: none"> • Receive complaint enquiry verbally, via email or letter • Review and document the complaint. • Contact the complainant if more information is needed to establish the identity of the complainant and the mediator the complaint is about, the issues and consequences of the issues. • Provide basic information about the complaints process and what to expect including this document and/or the Fact Sheet – How to complain about a Mi Member • Escalate to a complaint manager including undertaking a check for conflict of interest before providing detailed information • File completed complaint forms confidentially • Update complaints statistics 	<ol style="list-style-type: none"> 1. Complainant does not wish to proceed 2. Complainant will not provide identifying information 3. Complainant is satisfied with basic information provided <p>Next step</p> <ul style="list-style-type: none"> • Escalate to a Complaint Manager or • Close the file
Role - Complaint Manager (investigator)	
<ul style="list-style-type: none"> • Review the information provided about the complaint • Contact the complainant to explain role and to request more information • Contact the member to discuss the complaint • Review issues raised against standards or regulations if necessary • Determine most appropriate response • Discuss complaint with Mi management - <i>if issues warrant joint decision making</i> • Communicate response to complainant and member • Send feedback form to mediator and complainant • Provide completed Complaint Form to Mi Management 	<ol style="list-style-type: none"> 1. No breach of duty – explained and case closed 2. Minor breach of duty – resolution discussed, and complainant satisfied 3. Major issues with consequences – disciplinary action required <p>Next step</p> <ul style="list-style-type: none"> • Return to Office Staff • Escalate to Mediation Institute Management
Role - Mediation Institute Management	
<ul style="list-style-type: none"> • Review completed Complaint Forms • Discuss major issues with Complaint Manager to determine disciplinary action • Update NMAS Register (if accreditation cancelled) • Contact AG’s department (if accreditation cancelled) 	<ul style="list-style-type: none"> • Review major issues • Update registers and regulators <p>Next step</p> <ul style="list-style-type: none"> • Return to office staff to close the file

Mi COMPLAINT FORM

Mi ICMS Complaint Form		
Office Staff member	Date	
	Name	
Complainant	Name	
	Address	
	Phone Number	
	Email	
Member	Name	
	Contact Information	
Complaint	Issue Code or codes	
	Notes on issue	
	Issue Consequence	
	Notes on consequence	
Complaint Manager	Date allocated	
	Name	
	Phone Number	
	Email Address	
Substantiated? <i>(Completed following investigation)</i>	Is the issue substantiated?	
	Notes on likelihood	
	Escalate?	
Investigation	Harm rating ²	
	Appropriate response	
	Response action taken	
	Additional parties involved?	
Resolution / Decision	Managed / Resolved Date	
	Process used	
	Decision	
	Additional actions required (list)	
Notification of Decision	Complainant – date and response	
	Member – date and response	
	Other – who and what	
Decision Appealed?	Details	
Time and Cost	Length of matter (days open)	
	Cost to Mi	
Office	Data collated	
	Date Filed	

ISSUES CODES LIST

Issue Code		Description
1	Access to services	Including failure to keep an agreed appointment, unavailability of services, transit issues or unreasonable wait times, restricting access to information
2	Communication and discrimination	Including discrimination, failure to treat with respect, poor communication and attitude (bullying, rude, negative or patronising attitudes), inadequate information (including incomplete and incomprehensible information), misleading or incorrect information, or failure to provide interpretive or special needs support
3	Facilities	Including administrative processes, car parking, cleaning, catering, conditions, noise, lack of privacy, security
4	Cost	Including billing practices, insufficient or incorrect information, overcharging, failure to disclose, hidden costs
5	Grievance	Including inadequate responses to complaints and disputes, action against consumers or staff, or lodging complaints or disputes
6	Privacy and confidentiality	Including a failure to ensure personal privacy or confidentiality, allowing access to confidential record, inappropriate disclosure or failure to comply with reporting / duty of care obligations
7	Professional conduct	Such as failure to comply with practice standards (NMAS Part III – Practice Standards), bogus claims, sexual misconduct, incompetence, aggressive or violent actions, undisclosed conflicts of interest, failure to disclose required information (in application and re-accreditation processes), unethical conduct (misuse of information disclosed in mediation, abuse of process, inappropriate breaches of confidentiality)
8	Other	Does not fall in any of the other categories (must be detailed)

ASSESSING HARM TABLES

Consequence descriptor	
Insignificant	No damage to complainant, no financial loss, no breach of obligations by the practitioner
Minor	No financial loss, minimal harm of any type, very minor infraction (if at all) of practitioner obligations
Moderate	Small financial loss or distress or other harm (minimal) or non-conformance with professional obligations
Serious	Significant breach of obligations with some consequential or potential harm to complainant or other
Major	Major breach of obligations and consequential harm to complainant or other. Potential to bring mediation / FDR into disrepute

Substantiation descriptor	
Yes	The issue is agreed to have occurred by both the complainant and the member
Likely	The issue is disputed but probably occurred based on the evidence provided
Unlikely	The issue may have occurred but is unlikely based on the evidence provided
No	The issue did not occur based on the evidence provided

Harm Matrix

Did it occur?		CONSEQUENCES				
		INSIGNIFICANT	MINOR	MODERATE	SERIOUS	MAJOR
		1	2		3	4
Yes	A					
Likely	B					
Unlikely	C					
No	D					

Response Matrix

Major Issue	Involvement of Mi management required
Serious Issue	Mi Management attention needed
Minor Issue	Document for educational purposes, discuss improvements with practitioner
No substantiated issue	Practitioner to review internal processes. How could the complaint have been avoided?

MEDIATION INSTITUTE CODE OF ETHICS

Mediation Institutes Code of Ethics is aligned with the [NMAS Mediator Accreditation and Practice Standards](#) for Mediators accredited under the NMAS. By joining Mediation Institute as a Practitioner Member or Mediation Student you confirm that you comply with the following Code of Ethics and Conduct.

Professional Conduct

1. You will behave in a way that demonstrates good character. Good character is defined as being honest, demonstrating integrity and a respect for the law in your professional and private life. This includes but is not limited to:
 - a) Maintaining confidentiality as agreed with clients and not using information obtained in mediation for personal gain or advantage.
 - b) Refraining from threats or the use of violence in your personal and professional life
 - c) Upholding your duty of care to protect people from exposure to violence or threats of violence to the extent that it is possible without jeopardising your own personal safety.
2. To disclose to Mediation Institute at the time of application for membership, or if the issue arises during the term of your membership as soon as practical, any of the following:
 - a) any criminal convictions³
 - b) if you have been disqualified from any type of professional practice⁴
 - c) if you have ever been refused NMAS accreditation or accreditation renewal or had your accreditation suspended or cancelled.
 - d) any impairment that could influence your capacity to discharge your obligations in a competent, honest and professional manner
3. To be aware of and comply with:
 - a) the NMAS Approval Standards and Practice Standards
 - b) any relevant legislation
 - c) any other professional standards and
 - d) any other requirements relevant to you
4. To be honest in terms of marketing your services as a mediator including:
 - a) Accurately representing your qualifications and experience

¹ Providing accurate information about your practices and procedures so that potential clients are able to make an informed decision about participating in mediation
Not all criminal convictions prevent accreditation as a mediator however convictions for crimes related to violence, sexual abuse, child abuse or dishonesty may.

² Not all disqualification from professional practice prevents accreditation as a mediator however you must disclose and failure to disclose could indicate a lack of integrity and could significantly affect your standing.

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- b) To avoid promising that an agreement or any specific outcome can be achieved from the mediation process or implying that promise
 - c) To make the basis on which all fees, costs and additional charges will be levied clear and before the mediation process commences
 - d) To clearly indicate your role when acting in the capacity of mediator, especially if you have additional professional roles such as a lawyer, advisor, or other role
5. To avoid bias and conflict of interest and the perception of bias or conflict of interest by:
- a) Withdrawing from any case where you do not believe that you can facilitate the process fairly
 - b) By informing the participants of any situation where there may reasonably be grounds for a perception of bias or conflict of interest, even if you do not feel that you will be biased or conflicted in accordance with the Practice Standards.
6. To ensure that your professional insurances always remain current.

Conduct when Mediating

7. To mediate only when you have competence to do so and to seek support, a co-mediator or mentor when you are unsure of your competence in a specific situation or scenario.
8. To prepare appropriately for mediation and only conduct mediation in a location where the participants privacy and confidentiality can be protected (to their level of comfort.)
9. To uphold the integrity and fairness of the mediation process by:
- a) Conducting a pre-mediation assessment of the dispute and suitability for mediation in accordance with the Practice Standards and any other standards that apply to your specific practice
 - b) Facilitating mediation in a way that is fair, unbiased and without any personal gain from any specific outcome.
 - c) Avoiding conflict of interest
10. To use an Agreement to Mediate or other document to provide the client with clear and accurate information about your processes, costs, roles and how a participant can make a complaint if they do not believe that the process was facilitated in accordance to their expectations.
11. To not use any information gained during the mediation process or to act as an advocate or in any other professional capacity in relation to the same subject without the express permission in writing from both parties.
12. To uphold self-determination and communicate with all participants in a fair, respectful and sensitive manner
13. To facilitate the mediation process professionally supporting participants to engage in the process without demonstrating bias. To suspend or terminate

Mediation Institute Code of Ethics

the mediation process if it becomes evident to you that it is no longer appropriate or that it could be detrimental to one or more of the participants or yourself.

14. To only provide advice and/or expert information when you have the expertise and qualifications to do so and then only when:
 - a) It supports the decision-making of the participants,
 - b) When it is agreed by all participants in advance that advice and/or expert information may be provided e.g. in your Agreement to Mediate

Professional Development

15. To comply with the professional development standards required in the NMAS
16. To support the dispute resolution industry by upholding standards, supporting new entrants and advocating alternative dispute resolution as an alternative to adversarial processes where appropriate.
17. To cooperate in establishing and maintaining the quality, qualifications and standards of DR practice
18. To actively engage with any feedback, supervision or complaints made about or to you as a mediator while protecting confidential client information.

In addition, members should familiarise yourself with the Mediation Institute Independent Complaint Handling Service which applies to any complaints about members that cannot be dealt with internally by your systems.

Fact Sheet for Mi Members – Clauses

NMAS Accredited Mediators and Family Dispute Resolution Practitioners have an obligation, as part of their professional accreditation and registration to have an independent complaint handling service. Part of this obligation is to provide clients with information about how to make a complaint if they are unsatisfied with services provided.

Complaint Handling may be provided through your employer or through your professional association which provides an approved independent complaint handling service.

How to Provide Information about Complaints

We recommend that this information is provided in information given to new clients at the start of their engagement with you in your Agreement to Mediate.

Example Clauses for Sole Practitioners.

Complaints (NMAS Mediators Example)

NMAS mediators have access to independent complaint handling services as a condition of their accreditation.

If you have an issue with the services provided by your mediator, the first step is to email [\[BizEmail\]](#) or call [\[BizPhone\]](#) to discuss your concerns.

Your mediator's independent complaint handling body is Mediation Institute. If you are not satisfied with the response to your complaint to the mediator, you can contact Mediation Institute at office@mediationinstitute.edu.au or 1300 781 533 to raise your concerns.

Complaints (FDRP's Examples)

Family Dispute Resolution Practitioners have access to independent complaint handling services as a condition of their registration.

If you have an issue with the services provided by your FDR Practitioner, the first step is to email [\[BizEmail\]](#) or call [\[BizPhone\]](#) to discuss your concerns.

Your FDRP's independent complaint handling body is Mediation Institute. If you are not satisfied with the response to your complaint to the FDRP, you can contact Mediation Institute at office@mediationinstitute.edu.au or 1300 781 533 to raise your concerns.

Alternatives

These clauses are not prescriptive. If you are using the same Agreement to Mediate for multiple practitioners with different independent complaint handling bodies or if you prefer you can indicate that *details on how to escalate a complaint will be provided if required*.