

# The Professional Mediators' Association (PMA) Members' Code of Conduct and Practice Standards

*'Promoting Excellence in Mediation'*

"The Professional Mediators' Association exists to raise awareness of mediation and to promote excellence in all aspects of business, workplace, employment and consumer mediation."

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*These standards are applicable to internal workplace mediators, independent workplace mediators or mediators working as part of a mediation company.*

*The standards may be amended from time to time. PMA members will be notified of any amendments. It is the responsibility of PMA members to be aware and subscribe to the most current standards. For an up-to-date copy of these standards, please visit [www.professionalmediator.org](http://www.professionalmediator.org). If you have any comments or suggestions, please email the PMA co-ordinator at [info@professionalmediator.org](mailto:info@professionalmediator.org)*

## Introduction and Objectives

The Professional Mediators' Association (PMA) exists to promote excellence in all aspects of workplace, employment, business and consumer mediation.

### Who's who at the PMA?

President	David Liddle <small>MBA</small>
PMA Co-ordinator	Ervan Hady
PMA Advisory Committee	<p>A multi disciplinary group of mediators and associated professionals representing four distinct groups:</p> <ol style="list-style-type: none"> <li><b>1. Users and purchasers of mediation services:</b></li> <li><b>2. Mediation consultants and mediation providers</b></li> <li><b>3. Policy and Academic Members</b></li> <li><b>4. Ex-Officio / non-voting members</b></li> </ol>

### What is a Professional Mediator?

- The term professional mediator covers volunteer mediators, private sector mediators or internal workplace mediators. Earning money from mediation does not, in itself, constitute being 'professional'.
- A professional mediator is an individual trained to an accredited standard by a recognised training provider (see page 6).
- A professional mediator subscribes to these quality standards.
- A professional mediator is committed to their own personal development as a mediator and to the development and promotion of the mediation profession.

# Introducing the Professional Mediator Standards

The Professional Mediator Practice Standards and Mediator Charter form a key part of PMA membership and accreditation. The Standards provide three main functions:

1. To guide PMA members in the practice of mediation;
2. To inform participants about mediation and to promote public trust and confidence in mediation, and;
3. To provide a quality assurance framework for those choosing the services of PMA mediators.

Each member of the PMA agrees to abide by these Practice Standards when serving as a mediator in the context of workplace, employment, business or consumer mediation or dispute resolution. These Standards recognise that individual practice areas may vary, and a full spectrum of personal, professional, and cultural diversity surrounds mediator approaches. These differences are valuable and assist in the achievement of successful mediation outcomes. The Standards should not be seen as a barrier to this diversity, or to adversely influence this.

These Standards guide PMA members in demonstrating their professionalism. It is hoped that they represent the next step in the ongoing development of mediation as a recognised profession.

The Practice Standards and the supporting comments that follow each of them have been defined under two main descriptors:

- The use of the term “shall” in the Standards indicates that the mediator must follow the practice described.
- The use of the term “should” indicates that the practice described in the standard is highly desirable and is to be departed from only if there are strong reasons to do so. The use of the word “should” is intended to guide, not limit the exercise of the mediator’s individual judgment in the actual application of these Standards in a particular situation.

The use of the term “mediator” is understood to be inclusive so that it applies to co-mediator models. The use of the term “mediator” in these Practice Standards refers to individual members of the Professional Mediators’ Association.

The chosen order and format of the Practice Standards and comments are not intended to reflect any relative priority. There are eight Standards that PMA members are required to adhere to in order to maintain their membership of the PMA and which form the ‘Charter’ that they sign up to. The Standards each has a statement of compliance followed by additional comments that are provided to give guidance and aid in the interpretation of the Standard.

## **Membership**

Members of the PMA may have gained their knowledge and experience through a variety of accredited training opportunities delivered by a variety of recognised training providers. The PMA celebrates and actively promotes the diversity of the mediation industry within the UK.

For a training course to be considered as recognised by the PMA, the training provider should be an active corporate member of the PMA. Further, the training provider should actively promote these practice standards to their mediation trainees at the commencement of each course. The course should also be accredited by at least one of the following accrediting bodies:

- Open College Network (OCN)
- Oxford Cambridge and RSA Examinations (OCR)
- Institute of Learning and Management (ILM)

Applications for membership of the PMA from mediators who have not been trained by a recognised training organisation or who have attended a non-accredited mediation course will be considered on a case by case basis. The decision to include/exclude members is at the sole discretion of the PMA board. Any such decisions are final.

# The Professional Mediator Charter

## **1. INFORMED CHOICE**

All members of the PMA shall conduct mediation based on the principle of party self-determination and informed choice. PMA members shall explain to the participants that the probability of success can be improved when they participate with an open mind throughout the mediation process.

## **2. IMPARTIALITY**

All members of the PMA shall demonstrate impartiality throughout the mediation process by conducting mediations fairly, diligently, even-handedly, and with no personal stake in the outcome. PMA members shall decline a mediation if they cannot conduct it in an impartial manner.

## **3. CONFIDENTIALITY**

All members of the PMA shall discuss confidentiality issues as soon as practical and before confidential information is provided by anyone. PMA members shall maintain the confidentiality of all information obtained by them during the process of mediation, unless otherwise agreed to by the parties.

## **4. QUALITY ASSURANCE**

All members of the PMA shall conduct mediation in accordance with these Standards and in a manner that promotes diligence, timeliness, safety, presence of the appropriate participants, party participation, procedural fairness, and mutual respect among all participants.

## **5. COMPETENCE AND CPD**

All members of the PMA shall mediate only when they have the necessary competence to satisfy the reasonable expectations of the parties. All PMA members shall update their skills on a regular basis by attending structured Continued Professional Development (CPD) events recognised by the PMA to maintain and enhance their knowledge and skills related to mediation.

## **6. ADVERTISING**

All members of the PMA shall be truthful and not misleading when advertising or otherwise communicating their qualifications, experience, services and fees. PMA members shall not make promises or guarantees of specific results.

## **7. FEES AND OTHER CHARGES**

All members of the PMA shall provide each party or each party's representative true and complete information about mediation fees, expenses and any other actual or potential charges that may be incurred in connection with mediation.

## **8. MEDIATION PRACTICE**

All members of the PMA shall act in a manner that advances the practice of mediation.

# Standards and Commentary

## 1. INFORMED CHOICE

**All members of the PMA, whether accredited or affiliate members shall conduct mediation based on the principle of party self-determination and informed choice. PMA members shall explain to the participants that the probability of success can be improved when they participate with an open mind throughout the mediation process.**

- PMA members shall respect, value and encourage the ability of each participant to make individual decisions. Participants should be free to choose their own dispute resolution process, and mediators should encourage them to make their own decisions on all issues. However a mediator may need to balance such choices with their duty to conduct a quality process in accordance with these Standards.
- While a PMA member cannot ensure that participants are making informed and voluntary decisions, they should help participants understand the process, issues and options before them and encourage participants to make informed and voluntary decisions.
- PMA members should promote honesty and candidness throughout the process.
- PMA members should respect the culture, beliefs, rights and autonomy of the participants and should defer their own views to those of the participants, recognising that the interaction between the participants is often the key to resolution.
- PMA members should encourage participants to consider the benefits of participation in mediation and agreement, as well as the consequences of non-participation and non-agreement.
- Participation in mediation is usually a voluntary process. Even when mediation is “mandatory”, participants who are unable or unwilling to participate effectively in the mediation process should be free to suspend or withdraw from mediation. PMA members should respect a participant’s informed decision to continue or end the process.
- PMA members shall agree the role of third parties in the mediation process prior to commencement of mediation.
- PMA members shall not undermine independence and self-determination by any party for reasons such as higher settlement rates, egos, increased fees, or outside pressures from administrators of in-house mediation schemes or contractor/client relationships.

## 2. IMPARTIALITY

**All members of the PMA shall demonstrate impartiality throughout the mediation process by conducting mediations fairly, diligently, even-handedly, and with no personal stake in the outcome. PMA members shall decline a mediation if they cannot conduct it in an impartial manner.**

- PMA members shall conduct mediation in an impartial manner and avoid conduct that gives the appearance of partiality.
- PMA members should carry out an assessment, based upon practice context, to decide whether there are facts that a reasonable person would consider likely to create a potential or actual conflict of interest.
- PMA members should not act with partiality or prejudice based on any participant's personal characteristics, background, values and beliefs, or performance at a mediation, or any other reason.
- PMA members should neither give nor accept a gift, favour, loan or other item of value that raises a question as to the mediator's impartiality.
- PMA members shall disclose, as soon as practicable, all actual and potential conflicts of interest that are reasonably known to them and could reasonably be seen as raising a question about the mediator's impartiality. After disclosure, if all parties agree, the mediator may proceed with the mediation.
- If at any time a PMA member is unable to conduct a mediation in an impartial manner, they shall withdraw.
- PMA members should explain or offer to explain that they are not acting on behalf of or representing any participant.



### 3. CONFIDENTIALITY

**All members of the PMA shall discuss confidentiality issues as soon as practical and before confidential information is provided by anyone. PMA members shall maintain the confidentiality of all information obtained by them during the process of mediation, unless otherwise agreed to by the parties.**

- PMA members should not communicate to any non-participant information about how the parties acted in the mediation.
- PMA members may report, if required, whether parties appeared at a scheduled mediation and whether or not the parties reached a resolution.
- If a PMA member participates in teaching, research or evaluation of mediation, they should protect the anonymity of the parties and abide by all reasonable expectations regarding confidentiality.
- A PMA member who meets with an individual during mediation shall not convey directly or indirectly to any other person, any information that was obtained during that private session without the consent of the disclosing person.
- PMA members shall promote understanding among the parties of the need to maintain confidentiality of information they obtain in mediation.
- If the parties to mediation agree that the mediator may disclose information obtained during the mediation, the mediator may do so.

#### 4. QUALITY ASSURANCE

**All members of the PMA shall conduct mediation in accordance with these Standards and in a manner that promotes diligence, timeliness, safety, presence of the appropriate participants, party participation, procedural fairness, and mutual respect among all participants.**

- PMA members should agree to mediate only when they are prepared to commit the attention essential to an effective mediation.
- PMA members should only accept cases when they can satisfy the reasonable expectation of the parties concerning the timing of mediation.
- The presence or absence of persons at a mediation depends on the agreement of the parties and the mediator. The parties and the PMA member should agree the attendance of others at each session.
- PMA members should promote honesty and candor between and among all participants, and they shall not knowingly misrepresent any material fact or circumstance in the course of a mediation.
- PMA members may recommend, when appropriate, that parties consider resolving their dispute through arbitration, counselling, neutral evaluation or other processes.
- PMA members shall not undertake an additional dispute resolution role in the same matter without the consent of the parties. Before providing such service, a mediator shall inform the parties of the implications of the change in process and obtain their consent to the change. PMA members who undertake such roles assume different duties and responsibilities that may be governed by other standards.
- If a party appears to have difficulty comprehending the process, issues, or settlement options, or difficulty participating in a mediation, PMA members should explore the circumstances and potential adjustments that would enable the party to participate.
- If a PMA member believes that participant conduct jeopardises conducting a mediation consistent with these Standards, the PMA member shall take appropriate steps including, if necessary, postponing, withdrawing from or terminating the mediation.

## 5. COMPETENCE AND CPD

**All members of the PMA shall mediate only when they have the necessary competence to satisfy the reasonable expectations of the parties. All PMA members shall update their skills on a regular basis by attending structured Continued Professional Development (CPD) events recognized by the PMA to maintain and enhance their knowledge and skills related to mediation.**

- All members of the PMA shall have successfully completed a PMA validated professional mediator training qualification.
- PMA members shall fully and accurately represent their knowledge, skills, abilities, and limitations.
- PMA members should have information regarding their training, education and experience readily available for review by the participants prior to the mediation session.
- PMA members shall maintain and improve their skills and substantive knowledge necessary to reasonably satisfy the expectations of the participants in the matters they mediate.
- PMA members should exercise their independent judgment when their abilities or availability are unlikely to satisfy the participants' expectations. When exercising their judgment, mediators should consider factors such as the participants involved, their agreed-upon mediation approach, and the complexity, subject matter, and specific issues of the dispute.
- If PMA members, during the course of a mediation determine that they cannot conduct the mediation competently, they shall discuss this with the parties as soon as is practicable and take appropriate steps to address the situation, including, but not limited to, withdrawing or requesting appropriate assistance.
- If a PMA member's ability to conduct a mediation is impaired by drugs, alcohol, medication or some other cause, they shall not conduct the mediation.
- PMA members shall not provide participants with legal advice, therapy, counselling or other professional services during mediation.

## 6. ADVERTISING

**All members of the PMA shall be truthful and not misleading when advertising or otherwise communicating their qualifications, experience, services and fees. PMA members shall not make promises or guarantees of specific results.**

- PMA members should not make themselves publicly available to serve unless they can meet participants' reasonable expectations that they are qualified.
- PMA members should not solicit business in a manner that could impact their impartiality or otherwise undermine the integrity of mediation as a viable process to resolve disputes.
- In their advertising activities, PMA members should not identify individuals, organisations, or entities as mediation participants without their prior permission.

## 7. FEES AND OTHER CHARGES

**All members of the PMA shall provide each party or each party's representative true and complete information about mediation fees, expenses and any other actual or potential charges that may be incurred in connection with mediation.**

- If a PMA member charges fees, they should develop them in light of all relevant factors, including the type and complexity of the matter, their qualifications, the time required and the rates customary for such mediation services.
- PMA member's fee arrangements should be in writing unless the parties request otherwise.
- PMA members shall not charge fees in a manner that impairs their impartiality.
- PMA members should not enter into a fee agreement, which is contingent upon the result of the mediation.

## 8. MEDIATION PRACTICE

**All members of the PMA shall act in a manner that advances the practice of mediation. PMA members promote this Standard by engaging in some or all of the following:**

- PMA members should foster diversity within the field of mediation.
- PMA members should strive to make mediation accessible to those who elect to use it, including providing services at a reduced rate as appropriate.
- PMA members should participate in mediation research whenever practical.
- PMA members should participate in outreach and education efforts to assist the public in developing an improved understanding of, and appreciation for, mediation.
- PMA members should improve and promote mediation by sharing their knowledge and skills through training, mentoring and networking with others.
- PMA members should demonstrate respect for differing points of view within the field, seek to learn from other mediators and work together with other mediators to improve the profession and better serve people in conflict.
- PMA members should be open to, and provide opportunities for feedback from, mediation participants to enhance their mediation skills.
- PMA members who charge a fee are encouraged to have malpractice insurance.
- PMA members should have a file storage policy and advise the participants about that policy.
- PMA members should provide these Practice Standards to the mediation participants as soon as practical.
- Organisations with trained and recognised in-house mediation schemes that maintain rosters of, approve, appoint, or provide mediators and who recognise the PMA as an appropriate standard for their mediators to maintain should make reasonable efforts to ensure that each of their mediators is aware of and has agreed to abide by these Practice Standards.

## The PMA Aims

1. To develop a network of professional mediators, working across the UK and beyond.
2. To provide a voice for professional mediators and to influence government policy and decision making.
3. To raise the profile and the standard of mediation practice and secure the reputation of PMA members, reassuring the purchasers and users of mediation services that PMA mediators operate within a strict and rigorous professional framework.
4. To drive up the standards of the mediation profession by delivering regular continuing professional development programmes(CPD).
5. To develop and promote an accreditation scheme for professional mediators and mediation schemes.
6. To celebrate and reward success in all aspects of workplace, employment, business and consumer mediation.

## The PMA Values

The four guiding values of the Professional Mediators' Association:

<b>Informing</b>	The PMA will promote mediation as a preferred mechanism for resolving disputes.
<b>Excellence</b>	The PMA will facilitate excellence in all aspects of mediation.
<b>Transparency</b>	The PMA will conduct itself in a fair and open manner.
<b>Collaboration</b>	The PMA will work with all members and stake holders to promote collaboration.



### **Copyright and acknowledgements**

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