

Panel of Mediators Criteria and Procedure



**ARBITRATORS' AND MEDIATORS'
INSTITUTE OF NEW ZEALAND INC**
Te Mana Kaiwhakatau, Takawaenga o Aotearoa

www.aminz.org.nz



CRITERIA AND PROCEDURE FOR ADMISSION TO THE PANEL OF MEDIATORS

1. Introduction

Bylaw 10 provides for each panel to “contain the names of members considered in terms of these By- Laws to be suitably qualified and experienced to serve on that panel”.

Bylaw 10.3 states: “The basic criteria for admission to a Panel shall be those specified in the Guidelines for Panel Membership and Review specified in Schedule 6 to these By-Laws.”

Membership itself involves being “in all respects a fit and proper person”, and the need to avoid “dishonourable practice or conduct which in the opinion of the Council is or could be discreditable to the Institute”. From the Code of Ethics it is also possible to discern the need for discretion (e.g. in maintaining confidences), diligence and independence of action.

Those admitted to the Panel are held out by AMINZ to have knowledge, experience, the personal qualities and qualifications to serve on the appropriate Panel.

The applicant must satisfy the Panel Admission Assessors and the Council that the criteria are met such that the Institute can have confidence in the applicant acting as a mediator forthwith.

There can be no qualified acceptance to the Panel.

2. Admission Requirements

To qualify for admission to a Panel, the applicant must:

- (a) be a current fully paid up member of AMINZ
- (b) be qualified as an Associate or Fellow
- (c) be a member in good standing
- (d) have completed a current CPD return which satisfied the continuing professional development requirements at the time
- (e) have acted as mediator in at least 3 mediations
- (f) provide two referees in support of the application
- (g) have the personal qualities of acting honourably and being discreet, diligent and independent in thought and action
- (h) have knowledge of and affirm a commitment to compliance with the AMINZ Code of Ethics
- (i) have been interviewed by a Panel Admission Assessor who has made a recommendation to the Council regarding the applicant's suitability for admission to the Panel and
- (j) be a person who in the opinion of the Council having regard for (a) to (i) above and all other relevant factors is suitable for admission to the Panel.

3. Guidelines

The following guidelines are intended to encourage consistency and reliability in making an assessment of the applicant's suitability for admission to the Panel. They need not be applied rigorously when there are compelling reasons in favour of the applicant's admission to the Panel. However, any departure from them should be highlighted in the application and in the report of the Assessors.

3.1 Experience

An assessment of the applicant's experience based on the following:

- length of time the applicant has practised as a mediator
- the number of mediations conducted as mediator
- the field(s) of mediated disputes
 - the types of mediations conducted (e.g. two-party, multi-party, duration of mediation sessions and process, etc)

Depending on the type of mediations involved, completion of at least three mediations as mediator in the preceding two years might be expected. Applicants are required to comply with the Institute's Continuing Professional Development (CPD) requirements and must either hold a current CPD certificate or provide a CPD return with the application form.

3.2 Training and Qualifications

A significantly important qualification, although not a prerequisite, is the AMINZ Fellowship (Mediation).

Other appropriate training or qualification includes:

- training courses (basic, advanced, specialised), workshops, etc
- AMINZ mediation seminars
- Massey dispute resolution practicum (153.311)
- university papers on mediation topics
 - an applicant should be able to demonstrate awareness of relevant study and reference materials and a commitment to continuing professional development through both education and skills improvement by personal study and attendance at advanced or specialised training.

3.3 Skills

The following are significant relevant skills:

- communication – rapport, reflective listening, speaking, reading and writing
- use of language (e.g. to encourage a positive approach, to restate and reframe, etc)
 - flexibility (i.e. willingness to adapt the process to the needs of the parties, willingness to try a different approach if the current one is not working, etc)
- capable of working with diverse groups.

Skills in facilitating the mediation process are:

- understanding of the mediator's role and options
- understanding and managing conflict
- awareness of mediation models and process options
- awareness of negotiation methods, especially interest-based negotiation
- facilitation skills (to make the mediation process work)
- dispute process management and analytical skills
- developing outcomes and settlement agreements.

3.4 Protocols

The applicant must be familiar with the AMINZ Mediation Protocol, Guide to Mediation and Code of Ethics and be able to discuss coherently the mediator's role, skills and options:

- participation in mediation other than as mediator (i.e. as a party, support person, resource person, counsel, observer)
- communication skills
- mediation education and training (i.e. as lecturer, course leader, trainer)
- other areas the applicant considers relevant to mediation
 - other areas of dispute resolution (i.e. facilitation, human resource management, arbitration, referee, ombudsman, court action, etc).

3.5 Competence

It is up to the applicant to demonstrate his or her competence as a mediator by providing supporting documentation such as (optionally):

- certificates from appropriate training programmes
- records of experience as mediator, and in other relevant areas
 - written descriptions of the process used in mediation and the general scope of mediations (without breaching confidentiality)
 - testimonials or assessments from counsel, or parties involved in mediations carried out by the applicant as mediator
- references from other mediators or others
- reflective report on mediations conducted
- areas of expertise and experience.

In summary, the applicant must demonstrate and be assessed as being suitable to act as a mediator now; i.e. to be a person that AMINZ can properly include in its Panel, which is available to the public and from which he or she may with confidence be appointed as mediator.

4. Admission Procedures

- 4.1 Applications must be completed in the prescribed form (MFP) and submitted to the Executive Director of the Arbitrators' and Mediators' Institute of New Zealand Inc.
- 4.2 Applications must be accompanied by the relevant information and supporting documentation.
- 4.3 Applicants are required to have two referees in support of the application.
- 4.4 Applicants are required to undergo a Panel Admission interview with one Panel Admission Assessor who will provide brief notes of the interview and make recommendations to the Council.
- 4.5 Every application for inclusion on the Panel shall be referred to the Council for approval.
- 4.6 The Council is not obliged to furnish any reasons for refusing to admit the applicant to the Panel.
- 4.7 The Council shall be the final arbiter for each and every application for admission to the Panel.

5. Subscriptions Payable

- 5.1 Members who are admitted to the Panel are required to pay the panel subscription. (The full annual subscription for panel members as at 1 April 2011 being \$767 inclusive of GST).

- 5.2 Regardless of how many panels or lists the member is admitted to, one panel fee only is payable.
- 5.3 Failure to pay the annual panel subscription may result in the member being removed from the Panel and removed from the membership register.

6. Continuing Requirements

- 6.1 Continuing Professional Development (CPD) is mandatory for Panel members.
- 6.2 Failure to submit an annual CPD return and to satisfy the CPD requirements may result in the member being removed from the Panel.

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