



NEW SOUTH WALES  
BAR ASSOCIATION

## Mediation accreditation for Family Law Practitioners Family Law Settlement Service

In late 2013, applications were invited from members with experience in Family Law mediations to be a part of the Family Law Settlement Service (FLSS) Panel.

It has come to the attention of the Selection Committee that a number of Family Law practitioners did not qualify for the panel as they were not accredited as mediators with the New South Wales Bar Association and/or as Family Dispute Resolution Practitioners.

While a number of barristers have already been placed on the FLSS panel for a period of two years, the Family Court of Australia and the Federal Circuit Court of Australia have indicated that they will accept further nominations from the New South Wales Bar Association at the conclusion of our mediation accreditation process in October 2014.

If you meet the Family Law experience requirement for the FLSS panel but are not currently accredited as a mediator with the Association **OR** as a Family Dispute Resolution Practitioner (FDRP) you are invited to apply from 14 August when the Association's mediation accreditation application forms will be sent out via In Brief. Applications will close on 25 September 2014.

Included at the foot of this information sheet are the mediation accreditation requirements under the National Standards as well as the FLSS panel requirements. If you don't currently meet the mediation accreditation requirements and need to complete a 5 day mediation training course, the New South Wales Bar Association suggests that you contact one of the following training providers to enquire about a course which will finish prior to 18 September. Please note that if you are completing a 5 day course, accreditation under the National Standards also requires you to complete a 1 day national accreditation assessment day. These are usually held by the training providers at the conclusion of the 5 day mediation course.

<http://www.acdcltd.com.au/training/mediation-training>

<http://www.leadr.com.au/training/mediation-5-day>

<http://www.iama.org.au/events-and-training/training-information>

### **Family Law Settlement Service pre-requisites**

1. Accreditation as a mediator with the New South Wales Bar Association; **and/OR**
2. Accreditation as a Family Dispute Resolution practitioner; **and**
3. A current New South Wales Bar Association Practising Certificate; **and**
4. Demonstrated substantial involvement in the area of family law in the 3 years prior to application; **and**
5. Demonstrated that the time devoted to this area of practice, in each year of the past 3 years, is not less than 25% of normal full-time practice; **or**
6. If you are unable to meet the above criteria (for example, if you have had an illness or been on parental leave), but still wish to be considered for the FLSS Panel, demonstration of your family law mediation and litigation experience.

Under the arrangements agreed with the Courts, mediations will involve 2 hours towards preliminary conferences and reading and 3 hours for a mediation session at a flat fee of \$1,500.00 excluding GST payable.

The venue for the mediation will be arranged by the mediator in consultation with the parties. Any cost of hiring a venue will be an additional cost payable by the parties.

### **Mediation accreditation requirements**

**Please note that a current New South Wales Bar Association practising certificate is required for accreditation or re-accreditation as a mediator with the Association.**

To be accredited by the Bar Association and qualify for a court panel, mediators must have, in addition to the minimum requirements set by the Approval Standards, at least 10 points of mediation experience over their careers and five years' experience as a legal practitioner.

The Standards provide for accreditation either as 'experience qualified' mediators or as 'new' mediators.

### **Criteria for Accreditation**

In order to fulfill the threshold requirements for accreditation, all barristers must

- (a) hold a current NSW barrister's practising certificate and the required professional indemnity insurance;
- (b) have 5 years experience as a legal practitioner before accreditation.

For accreditation as ‘new’ mediators, barristers must demonstrate that they have:

- (a) completed a 38 hour mediation course and 1.5 hour assessment that comply with the National Standards, and
- (b) achieved at least 10 points of mediation experience required in the past for inclusion on both the District Court and Supreme Court mediators panels, that is:
  - having acted as a mediator constitutes three points per mediation;
  - having acted as a co-mediator constitutes two points per mediation; and
  - having represented a party at a mediation constitutes two points per mediation.

For accreditation as ‘experience qualified’ mediators, barristers must demonstrate that they have:

- (a) undertaken an initial mediation training course of three to four days;
- (b) achieved 25 hours of mediation, co-mediation or conciliation in the two years prior to their application; and
- (c) achieved 20 hours of ADR-related CPD in the two years prior to their application, which may comprise:
  - up to 20 hours of seminars, workshops etc on mediation or related skill areas (see s 7 of the Practice Standards);
  - up to 16 hours of presentations at mediation or ADR workshops, including 2 hours preparation time for each hour delivered;
  - up to 8 hours of representing clients in 4 mediations;
  - up to 10 hours of coaching, instructing or mentoring trainees and/or less experienced mediators in training courses;
  - up to 8 hours of role playing for trainee mediators and candidates for mediation assessment, or observing mediations;
  - up to 10 hours of mentoring less experienced mediators and enabling observational opportunities;
  - up to 10 hours of being mentored; and
  - up to 15 hours of external supervision or auditing of their practice.

## Criteria for re-accreditation

Mediators who seek to be recredited must satisfy their RMAB (in this case the Bar Association) that they continue to meet the approval requirements set out in Section 3 of the National Approval Standards. In addition, mediators seeking re-accreditation must, within each two-year cycle, provide evidence to the RMAB that they have:

- Sufficient practice experience by showing that they have either:
  - I. conducted at least 25 hours of mediation, co-mediation or conciliation (in total duration) within the two-year cycle; or,
  - II. where a mediator is unable to provide such evidence for reasons such as, a lack of work opportunities (in respect of newly qualified mediators); a focus on work undertaken as a dispute manager, facilitator, conflict coach or related area; a family, career or study break; illness or injury, an RMAB may require the mediator to have completed no less than 10 hours of mediation, co-mediation or conciliation work per two-year cycle and may require that the mediator attend 'top-up' training or reassessment;

and

- have completed at least 20 hours of continuing professional development in every two-year cycle that can be made up as follows:
  - I. attendance at continuing professional development courses, educational programs, seminars or workshops on mediation or related skill areas as referred to in the competencies (see the Practice Standards) (up to 20 hours);
  - II. external supervision or auditing of their clinical practice (up to 15 hours);
  - III. presentations at mediation or ADR seminars or workshops including 2 hours of preparation time for each hour delivered (up to 16 hours);
  - IV. representing clients in 4 mediations (up to a maximum of 8 hours);

- V. coaching, instructing or mentoring of trainee and/or less experienced mediators (up to 10 hours);
- VI. role playing for trainee mediators and candidates for mediation assessment or observing mediations (up to 8 hours);
- VII. mentoring of less experienced mediators and enabling observational opportunities (up to 10 hours).

Ongoing accreditation as a mediator requires the mediator to meet the practice standards and competencies described in the Practice Standards. An RMAB has discretion to remove or suspend a mediator in circumstances where it believes, on the balance of probabilities, that there has been non-compliance with the Practice Standards, other relevant ethical guidelines or professional requirements, or these Approval Standards. In relation to any removal or suspension, a mediator must be informed within 14 days of the concerns of the RMAB and provided with an opportunity to respond to the RMAB. The RMAB must have a process in place to deal with removal and suspension or must be able to provide access to a process where such decisions can be made in a procedurally fair manner.

For further information, please contact the Association's Policy Lawyer Jo Wilton [jwilton@nswbar.asn.au](mailto:jwilton@nswbar.asn.au) on Thursdays and Fridays.