



## ACCREDITATION OF MEDIATORS IN 2014 AND DISTRICT COURT MEDIATOR LIST 2015-16

Applications for accreditation and re-accreditation of mediators under the National Mediator Accreditation System (NMAS) and for selection to the District Court mediator list for 2015-2016 will be called for on 14 August 2014 and will close on Thursday 25 September 2014.

Barristers should note the accreditation criteria referred to below and read the Approval Standards as determined by the Mediator Standards Board. Those barristers who do not currently meet the qualifications are advised to start working towards meeting the criteria as soon as possible. **Please note that a current New South Wales 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. It is possible, however, for those who do not meet these two requirements for accreditation by the Bar Association to be accredited by another organisation such as ACDC, LEADR, IAMA or another mediation provider which offers courses that comply with the Standards. Barristers who are considering enrolling in one of the five day mediator training courses provided by ACDC, IAMA or LEADR or other mediation training organisations are advised that they are also required to undertake the 1 day assessment in order to qualify for accreditation under the Standards with the Association or with any other ADR provider.

As accreditation under the Standards is for a period of 2 years and mediators are selected for the Supreme and District Court panels also for 2 years, applications for accreditation are to be made at the same time each year as the applications for selection for the Court panels. For 2015-2016, only the District Court mediator list is open to applicants. **Barristers who were accredited or re-accredited in 2013 by the Bar Association will need to make an application for the 2015-2016 District Court list should they wish to be selected** (even though they are only halfway through their mediation accreditation period).

The Standards provide for accreditation either as 'experience qualified' mediators or as 'new' mediators. Application forms for accreditation in each category (including applications for selection for the District Court list for barristers who were accredited or re-accredited in 2013) will be available on the Bar's website from 14 August 2014. The Standards (both the Practice Standards and the Approval Standards) are available on the Mediator Standards Board website <http://www.msb.org.au/mediator-standards/standards>

### 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:
  - a. having acted as a mediator constitutes three points per mediation;
  - b. having acted as a co-mediator constitutes two points per mediation; and
  - c. 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:
  - a. up to 20 hours of seminars, workshops etc on mediation or related skill areas (see s 7 of the Practice Standards);
  - b. up to 16 hours of presentations at mediation or ADR workshops, including 2 hours preparation time for each hour delivered;
  - c. up to 8 hours of representing clients in 4 mediations;
  - d. up to 10 hours of coaching, instructing or mentoring trainees and/or less experienced mediators in training courses;
  - e. up to 8 hours of role playing for trainee mediators and candidates for mediation assessment, or observing mediations;
  - f. up to 10 hours of mentoring less experienced mediators and enabling observational opportunities;
  - g. up to 10 hours of being mentored; and
  - h. up to 15 hours of external supervision or auditing of their practice.

### **Criteria for re-accreditation**

Mediators who seek to be reaccruited 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:

1. Sufficient practice experience by showing that they have either:
  - a. conducted at least 25 hours of mediation, co-mediation or conciliation (in total duration) within the two-year cycle; or
  - b. 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
2. have completed at least 20 hours of continuing professional development in every two-year cycle that can be made up as follows:
  - a. 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);
  - b. external supervision or auditing of their clinical practice (up to 15 hours);

- c. presentations at mediation or ADR seminars or workshops including 2 hours of preparation time for each hour delivered (up to 16 hours);
- d. representing clients in 4 mediations (up to a maximum of 8 hours);
- e. coaching, instructing or mentoring of trainee and/or less experienced mediators (up to 10 hours);
- f. role playing for trainee mediators and candidates for mediation assessment or observing mediations (up to 8 hours);
- g. 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.

### **Mediator refresher training day Monday 1<sup>st</sup> or Wednesday 3<sup>rd</sup> September**

The Bar Association has arranged for ACDC Ltd to host a 1 day mediator course with a skills demonstration component. The course is designed with the following participants in mind:

- barristers who are seeking re-accreditation as a mediator in 2014 and require additional mediation practice hours or continuing education points as required under the National Standards;
- barristers who are seeking accreditation for the first time and who completed an initial training course prior to 2008. This course will act as a refresher for these barristers;
- barristers who are due for re-accreditation in 2014 and do have the required 25 hours of mediation experience but would like a refresher; and
- barristers with some experience in mediations who are interested in learning more.

When: Monday 1<sup>st</sup> September 2014 or Wednesday 3<sup>rd</sup> September 2014

Time: 9am-5.30pm

Where: The New South Wales Bar Dispute Resolution Centre  
Level 1, Selborne Chambers, 174 Phillip Street, Sydney

Cost: \$595:00 per person (including GST) and includes morning and afternoon teas, lunch, all course materials and certificates. (this is the same price offered in 2012 and 2013). Attendance at the one day refresher course will provide 7 cpd points.

If you are interested in attending, please register online by following the link below. Simply complete your details and scroll down to select 'mediator refresher course for the NSW Bar Association'. When you click on the link it will give you a choice of dates of either 1<sup>st</sup> or 3<sup>rd</sup> September.

<http://www.acdcld.com.au/training/online-registration>

**Please note** that this course will not meet the threshold requirements for initial mediation accreditation under the National Standards if you have no other mediation experience – you would be required to complete a 5 day training course)

## Family Law Settlement Service (FLSS) panel

The application form will also include a question about whether you would like to apply to be on the FLSS service panel. Please note the following strict pre-requisites as determined by the Family Court of Australia and the Federal Circuit Court of Australia:

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.

For further information please contact the Bar Association's Policy Lawyer Jo Wilton on (02) 9232 4055 on Thursdays and Fridays or by email [jwilton@nswbar.asn.au](mailto:jwilton@nswbar.asn.au)