



International Mediation Institute

PROFESSIONAL MEDIATION WORLDWIDE
Promoting Consensus and Access to Justice
www.IMImediation.org

Friarylaw ADR

IMI QUALIFYING ASSESSMENT PROGRAM

Introduction & Background

Friarylaw is a leading mediation service provider in the Republic of Ireland and is recently incorporated in Northern Ireland.

Friarylaw ADR provides:

- Mediation Training. Friarylaw provides mediation training (and accreditation), in association with ADR Group (UK), in all its manifestations (i.e., general civil and commercial, family, financial, clinical negligence, construction, employment, public sector and we provide other subject-matter seminars and master classes, etc.)
- Conferencing. In 2010 Friarylaw organised the very successful and widely acclaimed National Mediation Conference Symposium at Trinity College Dublin (with which Friarylaw has an association through Oliver J Connolly, who is a member of the law faculty).
- Original ADR Research and Development. The 'Friarylaw Public Sector Legal Spend Analysis', presented its Summary of Findings in 2010 (pursuant to 437 requests to every Government Department and Public Agency under the Freedom of Information Act, 1997) and attracted wide-spread attention from national print and broadcast media (Irish Times and Irish Independent Saturday March 6th 2010 and an interview with Mary Wilson of RTE's Drivetime in April 2010), in parliamentary questions on the floor of the Oireachtas, from the Department of Finance (two meetings at their request) and from others.
- Mediation Systems Design. Friarylaw provides custom, software-integrated systems to organisations for the administration and case management of conflict at all stages, i.e., from early dispute management through to mediation referral.
- Administration and Case Management. Friarylaw has developed a system for the administration and case management system of mediations and other

dispute resolution processes, including the nationwide provision of 350 Friarylaw panellist-mediators, mediation 'friendly' lawyers, other experts and non-party participants.

- Domestic Validation. Friarylaw is designated as an 'approved body' by the Department of Justice & Equality under Section 15 of the Civil Liability and the Courts Act 2004, under Section 27 of the Multi-units Developments Act 2011, and Friarylaw enjoys particularly excellent relations with the new Irish Government.

Track Record for Mediation Training

Friarylaw are leading and established providers of professional mediation training & accreditation in Ireland. Indeed, Friarylaw are the leading providers of professional mediation services in the State.

Our trained alumni include inter alia:

- Alan Shatter TD, Minister for Justice, Equality & Defence,
- Anne Colley, Chairperson of the Legal Aid Board,
- Michael Irvine, former President of the Law Society & former Managing Partner, Mateson Ormsby & Prentice Solicitors,
- Anthony O'Riordan, Senior Investigative Officer, Financial Services Ombudsman Bureau,
- Gay Mitchell MEP (Fine Gael candidate for the 2011 Irish Presidential Elections),
- Berchmans Gannon, former partner at Beauchamps Solicitors and leading clinical negligence lawyer,

and many other leading stakeholders throughout Irish civil and commercial society.

Since 2005, Friarylaw ADR has offered 64 mediation training and accreditation courses in the Republic of Ireland and Northern Ireland. We have trained over 350 individuals from every professional background. We have hosted these courses in Dublin at Friarylaw Chambers and around the island at various regional locations. Friarylaw ADR has also designed customised ADR training programmes for various, specific professional groups.

1. Mediator Experience

The Qualifying Assessment Program (QAP) must include a methodology for ensuring that Applicants have demonstrated to the satisfaction of the Program's Assessors a substantial level of experience as a mediator. The QAP must include clearly identified criteria on this requirement.

To pursue a Friarylaw ADR advanced training course leading to IMI certification, a mediator must have mediated in a minimum 5 disputes (either as a sole or a co-mediator). Of those mediations, at least two must have been remunerated (i.e., not pro bono or volunteer).

Additionally, Friarylaw ADR encourages candidates for advanced training courses to have completed at least 20 hours of continuing professional development in mediation through attendance at courses, workshops or seminars on ADR, mediation or related subject matters.

For a Friarylaw ADR accredited mediator to be awarded IMI certification, Friarylaw ADR will require that an applicant have completed at least 15–20 mediations, covering at least 200 hours of practice time. To track the requisite experience, an applicant must produce a time log that lists for each mediation conducted:

- the type of mediation (e.g., civil and commercial, employment, family, etc.);
- the length of the mediation in total (expressed in hours); and,
- the month(s) and year during which the mediations occurred.

As mediation is still in its infancy in Ireland, we anticipate an initially small cohort of mediators who would be eligible for IMI certification. We further anticipate that increasing as legislation is enacted in Q1 2012.

2. Mediation Knowledge

The QAP must include a methodology for determining that Applicants have demonstrated a strong understanding of general mediation theory and practice which may be based on written tests, essays, reports, theses interviews and/or other testing platforms.

All Friarylaw Accredited Mediators in Civil and Commercial Mediation have undertaken 40 hours of mediation training and theoretical study before accreditation. All Friarylaw Accredited Mediators in Family Mediation have undertaken 50 hours of mediation training and theoretical study before accreditation, including specific training in screening techniques and detailed discussion of the legal framework for family law in Ireland.

To be eligible for an award of IMI certification, a candidate must complete a written exercise that evaluates the candidate's knowledge of mediation theory. The exercise is given post-training.

2.1 Written Exercise

For the written exercise, candidates receive a transcript of a mediation. The mediation transcript is designed to elicit candidate responses in each course learning outcome category:

- Conflict Resolution Concepts
- Court Processes
- Mediation Process and Techniques
- Communication Skills
- Standards of Conduct / Ethics for Mediators
- Diversity Issues

A candidate's ability to recognise general mediation theory, as well as the characteristics and processes of a competent mediator, is assessed by eliciting a candidate's explanation of a mediation scenario that includes examples of 'competent' and 'incompetent' mediator behaviour. A candidate's recognition of these traits and analysis of how a particular trait affected the mediation is essential.

For example, a question on the written work could ask the candidate to identify whether a mediator displayed competent behaviour and, if not, what the mediator could do to improve his competency. The question would be worth ten (10) points. The assessor then evaluates a candidate's response against the assessment methodology for the question, which is as follows:

1. Did the candidate correctly identify whether the mediator was displaying competent behaviour? (2 points)
2. Did the candidate explain why the identified behaviour was or was not competent? (4 points)
3. Did the candidate offer satisfactory ways of improving the mediator's conduct? (4 points)

The written exercise asks a minimum of ten (10) questions. Each question contained in the written exercise is equally weighted, ranging from 5 to 10 points each based on the question's difficulty and complexity.

A candidate must receive at least 70/100 marks to be successful. The candidate's score is the average of the two assessors' individual scores. If the assessors' scores vary by over 20 points, Friarylaw ADR will appoint a third, independent assessor to determine why a wide discrepancy exists between the original assessors' scores and, in light of the discrepancy and any subsequent reasons discovered, whether the candidate should be accredited.

We designed the written assessment tool to ensure that a candidate must demonstrate competency in identifying mediation theory and the traits and characteristics of high standards of excellence in mediation. Our design ensures a high level of competency while simultaneously recognising that needing improvement in some areas should not bar a candidate from obtaining overall accreditation.

3. Mediator Skills

The QAP must include a methodology for the evaluation of candidates' performance in terms of the occurrence and effectiveness of mediation process and mediation techniques, against high competency benchmarks. The Evaluations/Assessments may be based on roleplay or live action assessments, and may include videotaped and online assessments such as web dramas, self-assessments, interviews, peer reviews, user feedback and other in-practice skill evaluations.

Friarylaw ADR Master Class candidates will be required to undertake a three-day programme of advanced mediator training. This programme includes an assessment by two qualified assessors, one being external to Friarylaw. The practitioner must demonstrate a high level of competence, in both knowledge of the mediation process and in mediation skills.

The applicant will undertake five role-plays during the Master Class, the final one of which will be videotaped and evaluated by two qualified assessors, one being external to Friarylaw ADR. A written report will be provided to each participant critically assessing the candidate against the Master Class learning outcomes.

All Friarylaw ADR Master Class advanced candidates are encouraged to undergo bi-annual peer review, where the candidates discuss case outcomes in a controlled, supervised environment.

Further, all mediations administered and case managed under the auspices of Friarylaw ADR require feedback from the mediators and, if possible, from the parties or their legal representatives.

3.1 Role Play Assessment

Two assessors evaluate a candidate's performance in a role play across six areas of competency:

- Gathering Information: Effectiveness in identifying and seeing out relevant information pertinent to the case.
- Empathy: Conspicuous awareness and consideration of the needs of others.
- Impartiality: Effectively maintaining a neutral stance between the parties and avoiding undisclosed conflicts of interest or bias.
- Generating Options: Pursuit of collaborative solutions, and generation of ideas and proposals consistent with case facts and workable for opposing parties.
- Generating Agreements: Effectiveness in moving the parties toward finality and in 'closing' an agreement.

- Managing the Interaction: Effectiveness in developing strategy, managing the process, coping with conflicts between clients and professional representatives.
- For each substantive area, a candidate can receive a mark from 1 to 3:
 - 1 = performing at a level below competency;
 - 2 = performing at a level where improvement is needed;
 - 3 = performing at a competent level.
- Each assessor considers a candidate's performance against a list of traits and qualities identified as corresponding to a particular mark. For example, in "Gathering Information" a candidate would receive a 3 (competent) if the assessor feels that he or she:
 - Asked neutral, open-ended questions. Listened to disputants describe problems and interests. Summarised and paraphrased their statements. Identified and addressed hidden issues. Clarified the issues. Demonstrated an understanding of the scope, intensity and contentiousness of the case. Gathered information through incisive and, where necessary, uncomfortable questions.
- The assessors' scores are averaged to arrive at a candidate's final score. To be successful, a candidate must receive a minimum of 15/18 points in the role play assessment to be successful.
- To ensure that a candidate does not receive grossly uneven scores from the assessors, where the assessors' individual scores differ by six or more points, Friarylaw ADR will appoint a third, independent assessor to determine why a wide discrepancy exists between the original assessors and, in light of the discrepancy and any subsequent reasons discovered, whether the candidate should be accredited.
- We designed the assessment tool to ensure that a candidate must demonstrate competency (a '3') in at least three (half) of the substantive areas; in the same light, no candidate can be accredited if he or she is below competency (a '1') in more than one area. Our design ensures a high level of competency while simultaneously recognising that needing improvement in some areas should not bar a candidate from obtaining overall accreditation.

(For example, if Assessor #1 awards 12 points and Assessor #2 awards 18 points, the candidate's average would be 15, ostensibly making him or her eligible for accreditation. Given the wide discrepancy, that would be unacceptable.)

In this situation, Friarylaw ADR would appoint the third assessor to investigate the discrepancy.)

4. Program Transparency

The benchmarks and criteria applied by the QAP must be published and be openly accessible on the organization's website. Details of all approved programs will be listed on the IMI web portal www.IMImediation.org and will include a direct link to the credentialing organizations' websites.

Friaryl原因 ADR has published the required benchmarks and criteria for Friaryl原因 ADR mediator accreditation. Upon successful determination of this application, Friaryl原因 ADR will also publish on our website the benchmarks and criteria to qualify for IMI Certification. They are available for public scrutiny, query, and feedback at: <http://www.friaryl原因-mediation.ie/mediation-training/imi-training-accreditation/>

5. Program Integrity

Each Assessor must have substantial experience of assessing the performance of mediators. At least one of the Assessors on each Program must be independent of the QAP.

All Assessors of the Friaryl原因 programme for IMI Certification are approved by the Friaryl原因 Accreditation Committee. To be approved, an Assessor must have substantial experience of mediating and of assessing the skills of mediators. At least one Assessor appointed by the Accreditation Committee is independent of Friaryl原因 (i.e., he or she is neither an employee nor a paid consultant of Friaryl原因 in the training programme in which the assessment takes place). At least one assessor is always independent of the training faculty.

To qualify as an assessor, one must satisfy the following criteria:

- **Subject-matter Knowledge:** An assessor must have successfully completed a mediation accreditation programme recognised by the Irish Minister for Justice and Equality (e.g., training completed through a body appointed under either the Civil Liability and Courts Act 2004 or the Multi-Unit Developments Act 2011).
- **Mediation Experience:** An assessor must have undertaken at least 25 mediations, equalling at least 250–300 hours of practice as a mediator (sole or co-mediation).
- **Programme Experience:** An assessor must have a substantial understanding of quality programmes, assessments, or other quality practices either through actual experience or training. For example, to meet this requirement, an assessor may demonstrate acting as a trainer/assessor in at least three separate programmes of adult education (similar to a mediation accreditation programme) where candidates are assessed against a set of established learning outcomes.

6. Ongoing Monitoring of Programs

The QAP must include a process for the ongoing monitoring of the performance and practice of the Assessors. IMI will liaise closely with all recognised program organizers to maintain a sustainable quality control system.

On completion of each Friarylaw Master Class programme, a member of the Accreditation Committee shall meet with the principal assessor for that programme to debrief on the assessment.

If the principal assessor has a negative observation about the work of another assessor on that programme, or if there has been any complaint regarding an assessor on that programme, the member of the Accreditation Committee shall investigate the observation or complaint, which may include asking for submissions from the assessor concerned. After investigation, the committee member shall report to the Accreditation Committee in writing about his/her investigation and recommend a course of adequate corrective and preventive actions for Committee approval.

Friarylaw welcomes—and would be subject to—independent monitoring and auditing from the International Mediation Institute in respect of its adherence to the programme guide at its discretion.

7. Commitment to Diversity

The QAP must be accessible on an equal basis to experienced mediators regardless of their professional affiliations, gender, race, ethnicity, age, religion, sexual orientation or other personal characterization.

Ireland is a diverse multi-cultural society. Friarylaw accepts applications for all programmes of accreditation from all sectors of society regardless of their professional affiliations, gender, race, ethnicity, age, religion, sexual orientation or other personal characterisation.

Friarylaw's commitment to diversity statement is published on the Friarylaw website at: <http://www.friarylaw-mediation.ie/about-friarylaw-adr>