

IMI Training Standards Task Force: Recommendations

Introduction:

The Mediator Training and Competency Assessment Task Force was convened by the IMI Independent Standards Commission (ISC) to make recommendations in relation to the standards for skills training and competency assessment for mediators as follows:

- Mediator Training Programmes: to establish high minimum criteria relating to the quality, methodology and essential content required for mediator skills training courses Mediator Skills Trainers
- Mediator Trainers: to establish high minimum knowledge, skills and experience criteria required by those who teach mediation skills courses
- Mediation Competency for Coaches and Assessors: to establish high minimum knowledge, skills and experience criteria required by those who coach and assess mediators.

The following guidelines set out these requirements in two sections. Section A covers the necessary criteria and standards that need to be in place for a training programme to be considered of an acceptable standard. Section B covers the criteria and acceptable standards for Trainers, Coaches and Assessors, who will work with participants on a mediator skills training programme.

A. Training Programme Requirements

This section outlines the requirements for Mediator Skills Training Programmes.

1. Registration

If there is a requirement within a jurisdiction that a training course should be registered, then it should be complied with by the training provider, and the training course should be registered.

Commentary:

Within some jurisdictions, there may be a type of formal regulation of mediation training courses in place. This can take the form of self-regulation through a professional body, or direct regulation by the relevant government entity/ministry of law or justice. Where such external registration exists, it provides minimum standards of training that can be applied objectively to all courses in any jurisdiction. It not only serves as a point of reference for new entrants to satisfy but also may help to raise overall standards of training across the industry.

In addition, trainer providers could consider setting entry requirements for their course to ensure that those attending will have the necessary level of ability to fully engage in the course. In a course with assessment this is less important as the assessment process will ultimately determine competence. Since being a mediator involves a multi-disciplinary skill set, it is not necessary or advisable for mediator training to be restricted to lawyers. Finally, any legal requirements of any jurisdiction in this respect will also need to be followed.

2. Course Content

Course content can be divided into Knowledge Development and Skills Development topics.

- a) In terms of Knowledge Development, the essential KNOWLEDGE topics that should be included in any training programme are:
- Mediation principles - neutrality, its voluntary nature, confidentiality, party self-determination; and process - the opening statement by the mediator, the steps of mediation and the mediator's role within each step. Note that while these must be covered, it is up to the training provider to adopt a format that is consistent with the focus, approach and ethos of the course, e.g. facilitative, transformative, on-line, co-mediation, etc.
 - The roles of legal counsel and representatives
 - An overview of negotiation and conflict resolution theory
 - Mediator ethics, including any appropriate ethical standards existing in the region in question
- b) In terms of Skills Development, the essential SKILLS topics that should be covered, demonstrated and practised in any training programme are:
- Forms of listening skills and communication strategies
 - Process management skills including but not limited to the use of joint and private meetings
 - Negotiation strategies and skills to manage the content of the dispute
 - Ways of responding to the diverse behaviours of the parties.

Commentary:

While seeking to maintain the flexibility of trainers to include content in the course which meets the needs of their social, cultural and legal context as well as the ethos of their course, there are certain topics that are fundamental in any mediator skills training programme and must be covered. These are the topics specified above.

The training provider could include other knowledge topics including but not limited to: legal framework for mediation and settlement; administrative procedures if required in that jurisdiction or mediation venue (such as agreement to mediate forms); court-connected or programme specific laws/rules; history of mediation; international development and trends; psychological factors in mediation and cultural and diversity aspects of mediation.

Trainers may include other skills-based topics including but not limited to management of emotions, dealing with difficult people, responding to impasse, neuro-linguistic programming, etc.

3. Competency Framework

A training course must have a 'competency framework' which clearly and concisely sets out the core competencies that an effective mediator should possess. This framework should be consistent with the content and skills requirements of the course as set out under Section 2 of these guidelines.

Commentary:

A competency framework is used throughout the course to give clarity to participants as to what mediator competencies they should achieve. It can also be used by the trainers, coaches and assessors, to provide consistent input, coaching, assessment and feedback to participants measured against a clear set of competency criteria.

In developing a competency framework for use on a course, training providers could draw on:

- *Their own individual and organisational knowledge of mediator skills training*
- *Existing external sources, including relevant legislation and other published frameworks.*

4. Course Duration

For a course to cover adequately the necessary content using appropriate methodologies, (both of which are set out in these guidelines), courses should have a substantial number of training hours being not less than 40 hours. This does not include pre-course preparation, lunch and breaks.

This minimum level of 40 hours, however, should not prevent training providers from aspiring to a higher number of practical hours, given that more practice will translate into better learning opportunities for participants. Therefore a number of training hours higher than 40 is suggested, whenever that is possible.

Commentary:

This minimum level has been set, as it is regarded as an acceptable minimum benchmark for the teaching and practice of the practical aspects of mediator skills, bearing in mind that these trainings are only intended to train people to a base level of mediator competence. Courses may vary in duration for many reasons including local requirements, venue of the course (university, court or private) context within which mediation takes place, as well as the approach of the training providers. Certainly, trainers must offer trainings of sufficient length to meet the laws or regulations of their particular jurisdiction.

5. Group Size

It is recommended that courses have a maximum class size of 30 students, with the trainer-student ratio ranging between an ideal of 1 trainer to every 6 participants; to a maximum of 1 trainer to every 10 participants.

Commentary:

One of the key factors affecting the quality of a course is to ensure that students have sufficient opportunities to interact with each other and the trainers. It is generally accepted that overly large class sizes and a low trainer- high student ratio can compromise this course quality.

Some of the factors to be taken into account when determining the participant to trainer ratio include:

- *overall class size*
- *breakdown of teaching, coaching, assessing and number of days*
- *the presence of assistant trainers, facilitators or coaches.*

For example, if the class is only comprised of 12 students, then a ratio of 1:12 might be appropriate for delivering presentations. However, one or two coaches could be brought in when the students are practising role plays. (See Section A.8. 'Setting up Role Plays' for more information).

6. General Teaching Approach

Mediator Skills training courses should be participatory, interactive and learner focused. To ensure this, a variety of teaching methodologies should be used, including lecturing, videos, interactive exercises, individual work, group discussion, talking in pairs, and role-playing. As a guideline, for the practical part of any course, that is designed to teach the process and skills to be an effective mediator, the following percentage of time should be spent on these different approaches to training delivery:

- Lecturing/knowledge input/presentation – approximately 10%
- Exercises and discussion – approximately 40%
- Role-playing, coaching and feedback– approximately 50%

Commentary:

The guidelines above refer to the practical part of any course which teaches the process and skills to be an effective mediator and are not intended to cover parts of courses which are largely theoretical in nature. Regardless of the nature of the training, it is recommended that the focus of the training should be on preparing the participants to practise mediation, and not on the study of mediation as an academic subject. The teaching approach, therefore, should be participatory, interactive and learner-focused, and should be responsive to the various learning styles of participants and consistent with the cultural norms of the jurisdiction.

7. Participant Materials

When preparation prior to the course is required, participants should receive comprehensive materials in sufficient time to allow them to prepare adequately. As a guideline, it is suggested that this should be no later than two weeks in advance of the course.

In a similar way, when participants are required to prepare for their roles in advance of the role plays, role play confidential briefs should be supplied in sufficient time to allow role players to prepare. As a guideline, it is suggested that this should be no later than one week in advance of the course.

If courses are designed with no pre-course preparation required, this guideline does not apply.

Commentary:

Without being prescriptive, the sort of materials that might be distributed in advance includes:

- *Course handbook/workbook*
- *Supplementary materials such as general instruction for role plays*
- *Mediation rules and procedures, relevant legislation*
- *Academic articles and text books.*

These materials may be distributed in hard copy and/or electronic format.

8. Setting Up Role Plays

Role plays are used for participants to practise the wide range of mediation skills in a simulated environment and also for participants to have the benefit of feedback and coaching from an experienced mediator, acting as a coach. Accordingly, role plays should be planned and run to allow the participants the maximum opportunity to learn. Therefore it is recommended that:

- Each role play in a course should have a maximum of six persons for a two party mediation. This is recommended in order to keep the role plays manageable for a new mediator to practise adequately and to allow maximum engagement of the other participants as role players
- Mediation time slots within role plays should be a minimum of 45 minutes in order to allow sufficient time for the mediator to practise a range of skills as the mediation develops
- At a minimum, at least 50% of all role plays should be supervised by an experienced coach/trainer, and of those, a supervising coach should be present a minimum of 50% of actual role playing time. This is a minimum level of supervision and coaching for role plays, and training providers should aspire to the highest possible level of coached or supervised role plays

- When role plays are used as assessments, these should be supervised by the assessor 100% of the role play time
- Coaches should be rotated among groups and participants to ensure that a variety of coaching approaches is experienced by all the participants
- In courses that contain assessment, any coach/trainer who coaches a participant should not be involved in any subsequent assessment of that participant
- Role plays throughout the course should ensure that all participants work with the widest range of their fellow participants as possible
- In order to ensure fairness and equality of participation, all participants should mediate the same number of times in role plays
- Role plays should be varied in subject matter and should allow for practice of different stages of the mediation process.

Commentary:

A role play here is defined as a simulated case where the mediator has an opportunity to practise a wide range of mediator skills, possibly across multiple phases of the process. This should be distinguished from a shorter scenario based role play, exercise or vignette which is designed to practise a specific skill, e.g. a short exercise to practise active listening or reality testing.

9. Providing Feedback

Participants learn not only by practising the skills of mediators but also from receiving feedback from experienced mediators acting in the role of coaches throughout the course. Training programmes must provide opportunities for feedback to participants. This feedback should be delivered using a competency framework (see Section A.3 above) to ensure consistency of approach to feedback by coaches trained in delivering effective feedback (see coaches' guidelines Section B.4 below).

Commentary:

A variety of different methods to deliver the feedback can be utilised, including:

- *Group coaching during a role play - Here feedback is not only for the benefit of the participant acting as mediator but also for the other participants involved in the role play*
- *Private one-to-one feedback following a role play - This enables more focused and detailed feedback on the performance of an individual, and can increase the opportunity for behaviour change during the course, particularly for those courses in which a participant is preparing for assessment. While it is not required, course leaders should aspire to design their programmes to include at least one opportunity to provide private one-to-one feedback*
- *Written feedback on a participant's performance is recommended to be used, particularly during an assessment element of a course.*

10. Performance Assessment and Accreditation

If a course is designed to assess, certify or accredit a participant as having the necessary skills and knowledge to mediate a dispute competently, then it must contain an actual assessment of the participant's mediator competence, as compared to its own competency framework, developed under Section A.3. of these guidelines. In relation to assessment of a mediator's skills, this should be done using a participant's performance during a role play.

While not being prescriptive, the following should be taken into account when the assessment process is designed:

- While some form of on-going continual assessment throughout the course could be included as part of the assessment process, there should be at least one separate assessment based solely on performance during a role play
- Assessments could be recorded and assessed afterwards, although live assessments are generally more advisable
- While one assessment is the minimum number, it is recommended that two different assessment sessions are conducted for each participant assessed by different assessors. This would support fairness and would avoid assessor bias. Alternatively, the same assessment may be assessed by two assessors
- Each assessment role play should be for a minimum of one hour of role play time each session, not including any time needed to draft a settlement agreement.

If mediation knowledge is also to be assessed, this can be done through a written or verbal test, or through pre or post course assignments, and should be consistent with the knowledge requirements set out in the provider's competency framework.

11. Facilitation of further development as a mediator

While it is accepted that training providers cannot offer actual mediations for all participants, they have an obligation, as far as possible, to facilitate participants' further development as a mediator.

Commentary:

Such opportunities for further development could include:

- *A session within or in addition to the course that explains how the mediation profession works within the jurisdiction and how mediators can market themselves*
- *Facilitating on-going mentoring and coaching, and providing networking opportunities*
- *Facilitating opportunities to observe actual mediations*

12. Complaints and Appeals Policy

All courses should have a clearly set out written complaints policy for participants who are dissatisfied with the quality of the course.

In addition, for those courses that have an assessment element, there should be a clearly set out appeal or review process for participants who are not satisfied with the outcome of their assessment.

B. Trainer, Coach and Assessor Requirements

This section sets out the requirements for those training, coaching and assessing participants in a mediator skills training programmes. For the purposes of these guidelines:

- a trainer delivers the skills and knowledge content set out in the programme.
- a coach observes the performance of a participant in the role of the mediator, usually during a role-play, and provides coaching and feedback to the participant, during and after the role-play, in order to improve their competency as a mediator.
- an assessor will also observe a participant's performance and will provide a formal assessment of competence. They may also provide feedback, which is normally given at the end of the assessment.

1. Training as a mediator

Anyone seeking to act as a trainer, coach or assessor should have successfully participated in a mediation training course which meets the requirements set out in Section A. If the course had an assessment, they must have successfully passed this assessment.

Commentary:

In order for a trainer, coach or assessor to be credible they should have completed a mediator skills training course themselves.

2. Registering as Mediator (if registration is required)

Where mediator registration is required in a jurisdiction, trainers, coaches and assessors should be registered as mediators.

Commentary:

Some jurisdictions require mediators to be registered. This is either through legal regulation or self-regulation and may be on a stand-alone register or via mediation service providers. Where such external registration exists, it provides minimum standards for mediators that can be applied objectively to all. It may not only serve as a point of reference for new entrants to satisfy, but also could raise overall standards of mediators across the industry.

3. Mediation Experience

Trainers, coaches or assessors should have conducted not less than two actual mediations of at least four hours' duration in each of the preceding three years, before being appointed as a trainer, coach or assessor.

Once appointed and in order to remain as a trainer, coach or assessor, they must continue to conduct two actual mediations of at least four-hours duration per year AND be able to show that he/she has maintained continuous professional development (CPD) of six hours per year. The CPD should be mediation specific, i.e. attended courses offering practical development, attended conferences/seminars/tutorials/debates on mediation, written articles on mediation, presented mediation training seminars or similar events.

It is recognised that in some jurisdictions where mediation is still developing, gaining actual mediation experience can be difficult. Accordingly, in this instance, acting as a mediator in a simulated mediation will be an acceptable substitute for actual mediation experience.

Finally, the proposed level of six mediations before being appointed as trainer/coach/assessor, and then two per year to continue to act in this role, is seen as a minimum and, where possible, training organisations are encouraged to set higher aspirational levels of mediation experience before appointing mediators as trainers, coaches or assessors.

Commentary:

In relation to the practical skill-based aspects of mediator training to which these guidelines apply, it is important that trainers, coaches and assessors are practising mediators and that they have the experience to teach, coach and assess participants in their use of the skills of the mediator. Therefore trainers, coaches and assessors must have sufficient actual experience of mediating before they begin to undertake these roles. They also must retain this actual experience to continue to act in these roles as well as undertake continuing professional development.

4. Training as a Trainer, Coach or Assessor

- a) Trainers should attend 'train the trainer' training of a minimum of 18 hours, which should broadly cover, but not be limited to:
- The content for the training which should be consistent with Section A of these guidelines
 - The competency framework of the course
 - Adult learning techniques
 - Participative / experiential learning principles
 - Reflective learning
 - How to manage a course, including time management and group dynamics
 - How to coach and give feedback.

Such a course should ideally be conducted in small groups, and following this training, trainers should observe experienced trainers before delivering their first training. During their first training, new trainers should be mentored and should receive feedback and on-going support.

b) In relation to training for coaches and assessors, they should undertake a course which should broadly cover:

- The competency framework of the course
- Applying the competencies consistently
- Giving effective feedback
- Coaching effectively during a role play (for coaches only)
- Understanding the assessment process and procedures (assessors only).

Following this training, coaches and assessors should observe other experienced coaches/assessors before coaching and assessing for the first time. They should be mentored and receive feedback on their first assessment and at regular intervals, to help ensure consistency.

Finally, from time to time, all trainers, coaches and assessors should undergo refresher training to ensure that their skills are up-to-date.

Commentary

The role of trainer, coach and assessor requires the use of considerable skills to facilitate the learning of the participants, over and above the skills of being a mediator. Therefore, in addition to being trained as a mediator, anyone appointed to be a trainer, coach or assessor should take a course which trains participants to be effective in these roles.

5. Levels of activity

It is important that trainers, coaches and assessors stay current in the practice of their mediator training delivery skills, the content of the course, and its coaching and assessment processes.

Therefore, at a minimum, a trainer should deliver at least one basic mediator skills training course or refresher course every two years. Training organisations looking to set an aspirational level could expect their trainers to deliver at least one training course or refresher course every year.

Coaches and assessors should coach and/or assess at least four role play sessions over the course of two years. An aspirational level would be four times per year.

Trainers should follow the same CPD (continuous professional development) as mentioned previously in Section B.3. Trainers should also have the opportunity to meet with other trainers to discuss training in a trainer meeting each year. These meetings should be facilitated by the training organisation.

6. Feedback

In order to ensure that course delivery, coaching and assessing is being delivered at the very highest quality level, on-going feedback should be sought from participants, and feedback should be given to those delivering the course.

New trainers, coaches and assessors should be observed and given feedback on their performance by senior colleagues. Further, there should be a system of peer review and feedback to all trainers, coaches and assessors. This may be done on an annual basis.

There should also be a more formal complaints policy for participants to use if they wish to formally complain about a trainer, coach or assessor.

Commentary:

There should be anonymous feedback from participants as to how they found the trainer, coach or assessor. This could be given by participants completing a feedback form following the course. Participants should also be able to give any feedback more directly if they wish, especially if there is an element that needs improvement in their opinion.

Additionally, a course should have an element of peer review so that trainers and coaches can give each other feedback on how they have delivered training.

Participants should be able to give informal feedback to coaches and assessors if they wish. This is especially important if the participant has not understood the coach./; or assessor's comment or meaning. Participants should be encouraged to consider the difference between criticising the result and criticising the way the assessor's feedback was expressed. A distinction should be made between participants contesting a grade or score (which should be dealt with separately) and feedback to the assessors.

Appendix 1: Taskforce members

Taskforce Steering Committee

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