



POLICY ON ADDRESSING CONCERNS

Preamble

The Scottish Mediation Register (SMR) is not a regulatory body so does not have any power over mediators who are admitted to the SMR beyond withdrawing the registration of a mediator who cannot show that they comply with the Practice Standards. The Scottish Mediation Register is administered by the Scottish Mediation.

Mediators registered with the SMR are expected to have their own process for handling concerns or complaints which should follow good practice. Some mediators may be members of a body or association which offers an additional system or process for handling concerns or complaints once the mediators own process has been exhausted. Some mediators may not have such an additional system or process.

The SMR can only address concerns that a Scottish Mediation Registered mediator has not shown that they comply with the Practice Standards.

The Scottish Mediation Register's procedure for handling concerns

A concern or complaint that a Scottish Mediation Registered mediator cannot show they comply with the Practice Standards will be handled by the office of Scottish Mediation (SM) in the first instance. The SM office will ask for all relevant information from the mediator and the person expressing the concern.

If, on the face of it, the mediator cannot show they comply with the Practice Standards, the SM office will write by recorded delivery letter to the mediator telling them that consideration is being given to their de-registration. At this stage the mediator's entry will be suspended and will not appear on the SMR.

The letter will give the grounds for such proposed de-registration and ask for any relevant representations about that proposal to be submitted to the Committee for Excellence in Mediation (CEM) or such other successor Board of the SM within 14 days or such other agreed time limit. The letter will also indicate the consequences of de-registration.

After 14 days or such other agreed time limit for representations, the SM office will refer the papers, including any representations made by the mediator about the proposed de-registration to a panel of the CEM comprising of 3 members, one of whom must be a person who does not practice as a mediator, chaired by one of their number to be agreed by the panel. The absence of representations from the mediator will not delay the panel's consideration of the proposed de-registration.

The CEM panel will decide:

- for each of the alleged failures, whether there is sufficient evidence to conclude that the alleged failure took place;
- if there has been a failure, whether it is sufficiently serious to warrant the removal of the mediator from the Register (“de-registration”)
- if the mediator is to be removed from the SMR, the length of time before the mediator may apply to the CEM to be readmitted to the Register.
- regardless of whether the mediator has been removed from the register the panel may impose conditions required to be met by the mediator concerned. This may include (though not exclusively), a requirement to undergo a period of supervision and to undertake additional CPD or training.

Where the CEM panel is satisfied that the mediator should be removed from the Register or have had a condition imposed on their continued membership, they will be informed by the SM office in writing. The office will send this decision to the mediator at their last known business address and will as soon as practicable send to the mediator by recorded delivery letter the reasons for this decision. The mediator will also be informed that they have 21 days in which to seek a review of the CEM panel's decision. At this stage where a decision has been taken to remove from the Register the mediator's entry will be removed from and not appear on the SMR. No part of the registration fee will be repaid to the mediator.

Review

A mediator aggrieved by a decision of the panel may, within 21 days of receiving the reasons for the decision, seek a review of the decision from the CEM. On the receipt of such a request for a review, the SM office will refer the review to the next full meeting of the CEM for consideration at which no member of the panel initially considering the proposed de-registration may take part.

The CEM's decision on review will be the final decision and will be communicated to the mediator by recorded delivery letter. No further right of review will be available to the mediator.

If the time-limit for requesting a review of the decision to de-register has expired with no request having been taken, the SM office may give publicity to the decision to remove the name of mediator from the Register on the basis of his or her failure to show that they comply with the benchmark standards of the Scottish Mediation Register.

Agreed at SM Board: 4 August 2016

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