



## The New South Wales Bar Association

### ACCREDITATION AND RE-ACCREDITATION OF MEDIATORS IN 2011

- 1 Applications for accreditation, re-accreditation of mediators under the National Standards and for selection to the Bar's list of mediators for the Supreme Court for 2012-2013 will be called for in August 2011 and will close on 23 September 2011.
- 2 Barristers should note the accreditation criteria referred to below and read the Standards. Those barristers who do not currently meet the qualifications are advised to start working towards meeting the criteria as soon as possible.
- 3 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 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 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 video assessment in order to qualify for accreditation under the Standards with the Association or with any other ADR provider.
- 4 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 2012-2013, only the Bar's Supreme Court list is open to applicants. **Barristers who were accredited or re-accredited in 2010 by the Bar Association will need to make an application for the 2012-2013 Supreme Court list should they wish to be selected** (even though they are only halfway through their mediation accreditation period).
- 5 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 Bar's Supreme Court list for barristers who were accredited or re-accredited in 2010) will be available on the Bar's website from August 2011. The Standards (both the Practice Standards and the Approval Standards) are available on the Bar Association's website.
- 6 **Barristers who were accredited as mediators by the NSW Bar Association in 2009 (for the period 2010-2011) will need to apply for re-accreditation as part of this process.** Please note the re-accreditation criteria below. You must be able to provide evidence to the Association that you have completed 25 hours of mediation, co-mediation or conciliation in the two years since your accreditation and you must have completed at least 20 hours of continuing professional development in areas related to mediation.
- 7 Please be reminded that the mediation mentoring scheme is in place to assist barristers in gaining knowledge about mediation and possibly assist in providing co-mediation opportunities. Mentors as well as those being mentored will be able to claim up to 10 hours (10 CPD points) towards accreditation. A list of the accredited

mediators willing to mentor is available on the ADR page of the Bar Association's website

<http://www.nswbar.asn.au/docs/professional/adr/mediators/mentors.pdf>

- 8 The Alternative Dispute Resolution Committee is hosting an all day ADR workshop at the Westin Hotel, Sydney on Saturday 13 August 2011 which will provide 7 points towards the CPD points for accreditation, and a number of these points may also be accumulated towards the Bar Association's requirement of 10 CPD points per year. CPD points from seminars on ethics, confidentiality, and forms of alternative dispute resolution other than mediation will also count towards the accreditation requirements.

### **Criteria for Accreditation**

- 9 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.
- 10 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.
- 11 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**

1. 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).
2. 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 Bar Association's Policy Lawyer Jo Wilton on (02) 9229 1721 on Thursdays and Fridays or by email [jwilton@nswbar.asn.au](mailto:jwilton@nswbar.asn.au)