

## Criteria for Inclusion on RICS Panel of Mediators (UK)

### 1 General

In order to be considered for inclusion on the RICS Panel of Mediators, candidates must satisfy the following entry requirements:

- Minimum 10 years post qualification experience in primary profession
- Successful completion of the RICS Accredited Mediator Training or equivalent (holders of other qualifications will be required to attend an assessment day);
- Attendance and success at an RICS DRS interview;
- Participation in a minimum of 3 mediations as lead mediator;
- Compliance with the CPD requirements of your principal professional body/bodies in the last two calendar years
- Must be prepared to cooperate with any investigation by RICS relating to a complaint against you as a panel member
- Must accept that a panel member can be removed from the panel at the discretion of the President.

**(NB Membership of an RICS panel of dispute resolvers does not guarantee a quota of (or any) appointments.)**

**1.2** Prior to attendance at an Assessment Day/Interview each candidate will be required to send to the RICS:

- A completed form DRS12(M);
- A summary of relevant experience (see attached example);
- Evidence of successful completion of RICS Accredited Mediator status (or alternative equivalent accreditation);
- Evidence of mediation experience – this evidence should include experience as mediator in at least 3 mediations ;
- Reports on the last 3 mediations carried out with a summary of the problems experienced and what has been gained from the experience;
- A mediation-specific CV which can be forwarded to prospective parties;
- Sample mediation agreement;
- Evidence of compliance with CPD requirements of your principal professional body/bodies in the last two calendar years. CPD relating to mediation events should be highlighted
- The appropriate fee

**1.3** Written references will have been obtained by RICS prior to the interview and will be forwarded to the interview board. A member of the interview board may speak to the referees prior to the interview.

**1.4** The interview board will comprise of 3 members. It will be chaired by a senior panel member, who will have been assessed for suitability of acting as chair. The chair will be assisted by a professional from the sector, who is not a panel member, and an independent member. The independent member's role is to ensure fairness and consistency of approach.

**1.5 Candidates successful at interview will be required to comply with and sign the Service Level Agreement between the Panel Member and DRS and abide by the RICS Mediator Code of Conduct.**

## **2 Standard**

**2.1** The standard of performance will be assessed by reference to the abilities and qualities that would normally be expected of a member on the RICS panel. The test is the standard of the ordinary skilled person exercising and professing to have that special skill. (Bolam -v- Friern Barnet Hospital Management Committee).

## **3 Criteria**

**3.1** In order to gain entry to the panel, the candidate must be able to demonstrate competency in the following areas:

### **3.1.1 Experience**

The interview board will have a discussion with the candidate to establish that:

- the candidate's appropriate skill areas as a mediator have been identified;
- the candidate has carried out a minimum of 3 mediations as a lead mediator.

### **3.1.2 Knowledge**

The candidate must be able to demonstrate:

- an understanding of the legal framework within which mediation operates;
- a detailed understanding of the process of mediation and its application including the duties, powers and obligations of a mediator;
- an understanding of conflicts

### **3.1.3 Skills**

The candidate should be able to demonstrate the ability to:

- manage the process effectively;
- act impartially and fairly
- build a relationship with the parties
- provide a safe environment for the parties
- encourage understanding between the parties
- reflect on and evaluate their own performance

### 3.1.4 Process

The candidate must demonstrate the ability to practice **facilitative** mediation and will be required to show knowledge of the importance of:

- pre-mediation contact;
- effective use and duration of the opening meeting;
- exploring needs with the parties;
- not rushing to figures;
- supervising the writing of the Settlement;
- appropriate follow-up

### 3.1.5 Attitude

The candidate must be able to demonstrate:

- the ability to treat all parties equally and fairly irrespective of race, gender, age, disability, religion or sexual orientation;
- the ability to give the parties confidence in the process of mediation
- sufficient standing, gravitas and flexibility of attitude to manage the process with presence and authority;
- the capacity to conduct himself/herself in a manner that would establish and maintain the independence of the mediator.

### 3.1.6 CPD/Relevant Experience

CPD is important for keeping up to date with practice and procedure. CPD for the last two calendar years prior to application is required, and appropriate CPD should be demonstrated.

This should include and be spread over the following areas:

- acting as a mediator or observer
- attendance (or presenting) at workshops including attendance or participation in mock/role play mediation
- attendance (or presenting) at structured training events
- assisting/representing parties in mediations
- private study of relevant material (including case law)
- participation in mediation de-briefs

**Please note: If you are RICS member, your RICS on-line CPD records should be included and mediation events highlighted.**

### 3.1.7 General

The interview board may also consider overall suitability and this can include:

- the standard and professionalism of any documentation and communications;
- appropriate use of written and spoken English;
- any upheld complaints received by RICS against the candidate or any judicial criticism or comment if applicable.

## 4 Possible Outcomes of assessment

### 4.1 Pass

A **pass** will be allocated to candidates who are judged to be competent in every category set out in the criteria.

### 4.2 Refer

Those who are judged 'Improvement Required' or 'Unsatisfactory' in up to two categories will be **referred**. A referral means the candidate will be admitted to the Panel once the required improvement has been demonstrated. The Interview Board to make a recommendation to RICS on what the candidate should be asked to do to meet the required standard which may include recommendation that they gain more experience and then resubmitting for interview.

### 4.3 Fail

Candidates who are judged 'Improvement Required' or 'Unsatisfactory' in more than two categories will be **failed**. Candidates who fail will not be admitted to the panel but will have opportunity to appeal against the decision to an Appeal Board.

The candidate will not be informed of the decision or the reasoning on the day of the interview.

## 5 Appeal Procedure

Candidates who have failed their interview have the right to appeal. Candidates may appeal against a fault in the process, not because they disagree with the assessors' decision about their competence. For further information, please refer to the DRS Appeal Procedure.

### Summary of Relevant Experience for inclusion on RICS Panel of Mediators

The feedback received from customers of DRS has on occasion emphasised the importance of mediators having current or previous experience in the skill area in which they are to be appointed (e.g. for disputes construction quantum a quantity surveyor may be appropriate).

Candidates who wish to be considered for a panel appointment should provide a brief summary of his/her working circumstances and type of work dealt with over at least the previous 5 years. While mention can be given to work received from the DRS or other RICS panels the emphasis will be on the work which has been dealt with as part of the candidate's day to day work particularly that which demonstrates active involvement in the sector or dispute resolution.

The summary, typically not more than around 500 words (although more information can be provided if the candidate requires) should cover the following topics:

- (1) A comment on your role in the organisation you work for, i.e. sole practitioner, director, consultant or other (what your title or job description is).
- (2) A brief explanation of your role in the context of the organisation you work for e.g. perhaps you are the head of a department, which is part of a larger organisation with offices in different locations across the country dealing with a variety of matters or a consultant working from the office for one day a week.

- (3) You will be expected to demonstrate current or previous participation in the particular sector relevant to the stated skills given on the Skills Form.
- (4) Reference to completed work at least over the previous 5 years. Ideally the work should include involvement with various aspects of surveying relevant to your sector
- (5) Client Confidentiality is obviously appreciated but indications of the size and nature of projects in which you have been involved can be given
- (6) Submissions made by you in connection with the above will also be considered in conjunction with the marketing material including websites which advertise your or your firm's expertise. However, where a firm's website refers solely to their expertise in one specific field, the surveyor will be expected to justify why s/he should still be viewed as having expertise on other areas included on his/her skills form. While this may be interesting and relevant background information, obviously it has to be stressed that the appointment of an mediator is a personal, not a corporate one.
- (7) In addition to the personal involvement in the market concerned, you will be expected to provide appropriate CPD records.

### **Example of a Typical Summary**

*My name is Jonathan Withers MRICS and I am the local partner of the Anytown office of Ramsbottom Price where I am based five days a week. My company has four offices overall, three of which deal with general quantity surveying work and one of which deals with claims preparation and dispute resolution. It is the latter in which I am employed.*

*I deal with a wide variety of disputes both prior to and after formal procedures have been commenced. I regularly act as an expert witness in relation to construction quantum.*

*Over the previous 3 years I have dealt with a number of adjudications as party representative (five in total). I have prepared delay and cost claims on four multimillion pound projects. I have continued to carry out post contract surveying duties on four projects including a multi storey office block (£10m JCT WCD), a high specification house refurbishment (£1.5 m IFC 98) and a highway scheme (£5m ICE 5<sup>th</sup>)*

*I have acted as quantum expert in relation to a professional negligence claim against an Architect (failure to obtain planning permission/stop notice). I have acted as quantum expert in a liable case (suggestions of overcharging typical of a "cowboy builder") I have turned down two possible appointments as party representative due to conflicts of interest.*

*While I have historically dealt with construction projects of various sizes I have not personally dealt with any significant volume of housing related projects. That said our practice retains significant cost data on housing projects should I be asked to advise on such matters.*

*I have acted as mediator on disputes mainly relating to construction quantum (typically final accounts) In addition I have acted as mediator in relation to boundary disputes, employment matters, IT, leases and defects.*

*I attach herewith some corporate marketing information which we send to our clients which will give you a further idea of the work which my company and I personally, deal with and you are welcome to consider the contents of the firm's website which is [www.brillianturveyors.com](http://www.brillianturveyors.com)*