

Reassessment of Panel Mediators

All Panel Members must comply with and sign the Service Level Agreement between the Panel Member and DRS

1 General

- 1.1 One of the conditions of panel membership (as stipulated in the Service Level Agreement), is regular reassessment of panel members. This will comprise of a formal interview, lasting approximately 60 minutes and will ordinarily take place at five yearly intervals but may be triggered by any of the following:
- Expiry of 5 year period since last assessment;
 - Adverse feedback;
 - A recommendation by RICS Regulation following a complaint against the panel member;
 - Failure to comply with CPD requirements;
 - Discretion of the President
- 1.2 Prior to the interview each candidate will be required to send to the RICS:
- evidence of successful completion of RICS accredited mediator training course or equivalent (CEDR or Chartered Institute of Arbitrators);
 - evidence of mediation experience - this evidence should include experience as a lead mediator in at least **3** mediations.
 - a report on the 3 mediations carried out with a summary of the problems experienced and what the mediator has gained from the experience.
 - sample mediation agreement;
 - a completed skills form;
 - the relevant fee for reassessment
- 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 will usually 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 must demonstrate experience as well as formal accreditation to retain their place on the panel.**
- #### 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 man exercising and professing to have that special skill. (Bolam -v- Friern Barnet Hospital Management Committee)

3 Criteria

3.1 In order to remain on the panel, the candidate must be able to demonstrate competency in the following areas:

3.1.1 Skills Form

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 referees must have personal knowledge of the candidate's experience in the areas ticked on the skills form;

3.1.2 Knowledge

Candidates 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

3.1.3 Skills

Candidates must demonstrate the ability to:

- Manage the mediation process effectively
- Act impartially and fairly
- Build a relationship with the parties
- Provide a safe environment for the parties
- Encourage understanding between the parties

3.1.4 CPD

CPD is important for keeping up to date with practice and procedure. CPD for the previous five years is required, and **40** hours per annum as a minimum should be demonstrated. This should include and be spread over the following areas:

- acting as a mediator/observer
- attendance (or presenting) at workshops
- 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: Your RICS on-line CPD record should be included and mediation events highlighted.

3.1.5 Attitude

Candidates must be able to demonstrate:

- the ability to give the parties to have confidence in the process of mediation
- the necessary gravitas to demonstrate 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 General

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

- ability and aptitude of the mediator;
- the standard and professionalism of any documentation and communications;
- any upheld RICS complaints against the member or any judicial comment if applicable.

4 Possible Outcomes of reassessment

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 remain on the panel and, if the required improvement is met, will be passed. If the standard is not met, the candidate will be failed and has the right of appeal. The Interview Board to make a recommendation to RICS on what the candidate should be asked to do to meet the required standard. (New candidates who are referred will not be added to the panel until the referral conditions are met.)

4.3 Fail

Candidates who are judged 'Improvement Required' or 'Unsatisfactory' in more than two categories will be **failed**. Candidates who fail will be removed from 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.