

FIJI MEDIATION CENTRE

Code of Conduct for Mediators

This Code of Conduct for Mediators sets the minimum standards and outlines a framework for the ethical practice considered essential in conducting mediation. This Code of Conduct applies to all persons appointed by the Fiji Mediation Centre (FMC) to act as a Mediator.

1. Acceptance of Assignment

The Mediator will before accepting an assignment, be satisfied that he will be able to conduct the mediation expeditiously and impartially.

2. Fees

In accepting appointment, the Mediator expressly agrees to the remuneration as fixed by FMC, and should not make any unilateral arrangements with any of the parties for additional fees.

3. Mediation Procedure

The Mediator will act in accordance with the FMC Mediation Procedure.

4. Impartiality

A mediator may mediate only those matters in which the mediator can remain impartial and even handed. If at any time the mediator is unable to conduct the process in an impartial manner the mediator may withdraw. Accordingly, a mediator must avoid:

- a) partiality or prejudice; and
- b) Conduct that gives any appearance of partiality or prejudice.

5. Conflict of Interest

Before commencing the mediation, a Mediator must disclose all actual and potential conflicts of interest. Disclosure must also be made if conflicts of interest arise during mediation. All disclosures must be made as soon as practicable after the Mediator becomes aware of the interest or the relationship.

- a) Interests which should be disclosed include any association with a party or
- b) Adviser or representative of a party, which could reasonably be seen to affect the impartiality of the Mediator.
- c) After making disclosure, the Mediator may proceed with the mediation if all parties agree and the Mediator is satisfied that the conflict will not preclude the proper discharge of the Mediator's duties. The parties' agreement must be recorded in writing. If the Mediator believes that the relationship or interest would affect the Mediator's impartiality, he or she should withdraw, irrespective of the expressed desires of the parties.

6. Confidentiality

The mediator must keep confidential all information arising out of or in connection with the mediation including information about how the parties acted in the mediation process, the

merits of the case, any settlement offers or agreed outcomes. The Mediator will only disclose the same if required to do so by general law, or with the consent of all the parties, or if such disclosure is necessary to implement or enforce any settlement agreement.

7. Bribes, Favours or Gifts

A Mediator must not, in any capacity or situation, accept any bribe, favour or gift offered by any person in relation to any mediation.

8. Withdrawal

- a) A withdrawal by the Mediator will occur –
 - i. when he realizes that he has committed a breach of any of the terms of this Code;
 - ii. if there is a request to do so in writing by any of the parties; or
 - iii. When he is required by any of the parties to do anything in breach of this Code or FMC's Mediation Procedure.
- b) The Mediator shall, on the occurrence of i, ii or iii above, immediately inform FMC of his withdrawal.
- c) The Mediator also has the discretion to withdraw if –
 - i. any of the parties breaches the Mediation Agreement or FMC's Mediation Procedure;
 - ii. any of the parties acts unconscionably;
 - iii. in his opinion, there is no reasonable prospect of a settlement; or
 - iv. the parties allege that he is in breach of this Code.

9. Compliance

- a) A Mediator who fails to comply with any of the standards set out in this Code may be liable to the following –
 - i. Disciplinary action under the Mediator's Disciplinary Procedures; or
 - ii. Suspension or termination from practicing as a Mediator with the FMC.