Mediation, Negotiation and Conflict Management Skills

Assessment Criteria for Assessment Module

These are the criteria which we use in the assessment module. It is helpful to have these available as a checklist throughout the course.

For those of you who are undertaking the assessment module, when assessing your performance on the two assessment days, assessors will have regard to various criteria, including the ways in which you:

1. create and maintain an effective framework for mediation;
2. establish and maintain rapport and build effective working relationships; and
3. maintain momentum and appropriate focus on outcome.

The criteria are listed in full in the following pages. You might not be able to demonstrate all of the skills and techniques in your two assessed performances, especially those used towards the end stages as time may not enable you to get that far. The assessment procedure takes account of situations where there has been insufficient opportunity to demonstrate a skill or technique. We have asterisked those elements which are particularly important.

In each of the three categories above the assessors will mark according to the following standards:

1. **excellent**
2. **competent**
3. **not competent**

You will be assessed on one occasion each day. Over the two days, you will be expected to show competence or excellence in each of the 3 categories in at least one of your two performances. Subject to the written assignments mentioned below, you will achieve certification as competent in mediation skills if, over the two days, you achieve at least 5 assessments of “competent” or “excellent” out of the total of 6 categories on which you will be assessed. In addition, the assessors will use numerical scoring (0-10) to check the marking in each of the 6 categories. Each candidate is expected to achieve at least 38 points overall.

You will be assessed on the mediation preparation and post-mediation stages by short written assignments to be completed within three weeks of the assessment days.

Category 1

Creating and maintaining an effective framework for mediation

Qualities

Integrity, impartiality, professionalism, objectivity, clarity, authority
Awareness of own and others' assumptions, judgements and biases

Skills and behaviours

Setting out framework and guidelines at the start
- Setting the scene and explaining the process in a manner that creates confidence
- Clarifying roles and managing expectations
- Explaining guidelines, especially confidentiality*
- Checking authority to make decisions
- Establishing a structure and tone at the initial stages to create a sense of order, purpose and confidence*
- Identifying and managing expectations about the process

Maintaining framework and managing boundaries throughout
- Keeping parties informed as to what is going on
- Explaining how each part of the process fits into the whole
- Checking and maintaining confidentiality*
- Showing sensitivity to any cultural, language or other issues of diversity
- Demonstrating a clear understanding of how to manage the process, as distinct from the content
- Demonstrating appropriate flexibility to meet the needs of the parties and the process, including unexpected events*
- Retaining impartiality and dignity of self and the process throughout*

Summarising
- Summarising regularly and at the end of each session to check own understanding and ensure that everyone else understands what is happening and is proposed*
- Effective use of flip chart/other visual aids to enhance summaries and creative thinking

Process choices
- Effective use of private and joint meetings and other opportunities for engagement
- Recognising and moving between different stages of the process*
- Managing transitions smoothly so that participants know what to expect and stay engaged

Management of time
- Appropriate pace, according to the needs of the process*
- Appropriate allocation of time between parties
- Keeping parties informed about timings

Self management
- Unobtrusive use of notes
- Use of breaks – and taking time to reflect/plan*

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Handling challenges

- Demonstrating effective authority over the process – without imposing undue pressure or solutions*
- Handling challenges to the authority of the mediator/process in a calm and level-headed manner
- Identifying ethical dilemmas and addressing them with integrity
- Maintaining impartiality throughout and resisting invitations to become partial*

Working on Outcomes

- Helping parties to identify the terms of any agreement or other outcome
- Working on the detail of the resolution agreement: language, terminology, confidentiality*
- Ensuring parties agree and understand their responsibilities under the agreement and its binding nature as appropriate
- Assisting with drafting issues as appropriate
- Working with parties if no agreement reached

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Category 2

Establishing and maintaining rapport and building effective working relationships

Qualities

Respect, warmth, energy, encouragement, empathy, emotional intelligence, courtesy, curiosity, lightness of touch, patience, insight, intuition, elicitive not prescriptive

Skills and Behaviours

Setting a good atmosphere

- Creating rapport with all participants as quickly as possible*
- Using room layout, seating arrangements and personal space to maximum effect
- Paying attention to comfort factors and practical needs
- Appropriate use of names

Active listening

- Avoiding interrupting
- Observing – alert to verbal and non-verbal cues
- Use of silence and pausing
- Appropriate acknowledging, clarifying, rephrasing, reflecting, summarising*
- Responding in a way that demonstrates non-judgmental understanding

Effective Questions

- Open questions to elicit information*
- Exploring detail and answers through further thoughtful questioning

Dealing with emotions

- Recognising and paying attention to emotional content as well as substantive content of any communication
- Responding to and absorbing emotions appropriately*
- Creating opportunities for participants to recognise and express emotions
- Handling own emotions and responses

Appropriate use of language and other communication, including:

- Reframing
- Careful selection of words – neutral, precise, simple and clear (verbal)*

Non-verbal communication

- Appropriate eye contact, facial expression and body position (visual)*
- Appropriate tone of voice (auditory)

Team dynamics

- Building relationships with all members of the team, as appropriate
- Reading team dynamics and responding appropriately
- Enabling parties to consult with advisers and to reflect and prepare at each stage
- Identifying opportunities for engagement between individuals in different teams

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Category 3

Maintaining momentum and appropriate focus on outcome

Qualities

Courage, flexibility, creativity, intellect, judgement, persuasiveness, stamina, tenacity, optimism.

Skills and behaviours

Probing
- Finding out and helping parties to understand each other's concerns, interests, needs, anxieties, desires and objectives*
- Discovering what lies behind the parties' positions
- Use of other techniques such as prompting and hypothesising

Information flow
- Getting authority to disclose information strategically
- Checking for authority to disclose and knowing when it would be useful to get authority to release information*
- Strategic use of information and managing its presentation*

Parties' responsibility
- Setting and checking tasks
- Encouraging generation and examination of the options, alternatives, possible outcomes*
- Encouraging commitment to the process and to an outcome – and each member of a team to participate appropriately
- Using understanding of negotiation tactics and strategies to assist parties to maximise prospects of resolution*

Pace
- Maintaining forward momentum*
- Helping parties to avoid commitment to solutions at too early a stage

Problem solving
- Showing appropriate persistence
- Being creative in helping parties to find solutions – including non-monetary outcomes
- Identifying common ground, joint gains and mutual interests*
- Helping parties formulate offers/proposals/packages and to make concessions – using own negotiation skills effectively*
- Helping parties to recognise and address issues of saving face
- Identifying objective criteria
- Using techniques to break impasse and deal with deadlock

Risk assessment and reality testing
- Testing strengths and weaknesses of parties' cases – risk assessment and reality testing*
- Challenging inappropriate tactics
- Tackling "bottom lines", bluffs and threats
- Showing a good sense of the business and other needs of the parties*
- Testing workability of possible solutions

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