

Mediation observation

Guidelines and undertaking



2024

Purpose of Observer's Appointment

1. The purpose of observing a mediation is to give a newly trained CEDR-accredited mediator (the Observer) an opportunity to:
 - o obtain first-hand experience of a real-life mediation; and
 - o observe and learn from a practising mediator in an atmosphere of apprenticeship.
2. Observing a mediation can develop and improve the observer's skills through witnessing good practice and reflecting on their own approach to mediation.

CEDR Code of Conduct for Third Party Neutrals

3. All observers are required to study [the CEDR Code of Conduct for Third Party Neutrals](#) prior to the mediation and abide by its provisions at all times during the mediation.

Appointment of Observers

4. The following criteria are used when appointing an observer:
 - o Active participation in MyCEDR Membership programme.
 - o Length of time an observer has been on the waiting list.
 - o Observer location and participation from within the European Economic Area (Data protection precludes observers participating from outside the EEA)
5. On average, observers can expect to wait for several months for an opportunity to observe a mediation. Therefore, we recommend that newly-accredited mediators seeking experience source their own opportunities to observe mediations where possible.

Notification

6. The amount of notice provided by parties prior to booking a mediation can vary widely, from as little as 48 hours' notice to several weeks or even months. On average CEDR receive 7-10 calendar days' notice to organise a mediation.
7. CEDR will seek to provide as much notice to observers as possible. Please note the following:
 - o All observation opportunities will be advertised through the Mediation Observer Portal on MyCEDR on a first come, first served basis..
 - o Mediations are often arranged within short timescales and it is possible that you will receive only a few days' notice before an observation . opportunity..
 - o If the parties to a mediation withdraw consent to having an observer attend, your observation will be cancelled. In these circumstances, you will be placed back at the top of the waiting list for the next opportunity. Please note CEDR's policy on expenses at paragraph 24.
 - o Prior to accepting an observation, all observers must conduct a conflict check and confirm to CEDR that they have no conflict of interest with the parties.
8. In the exceptional circumstances where an observation is cancelled, the mediator will ensure

that the cancellation is communicated to CEDR and to the observer. The observer will then be eligible to be appointed to another mediation.

Before the mediation

9. Prior to the mediation the observer must read and agree to the provisions of this Undertaking, particularly with regard to confidentiality of the mediation process prior to receiving any documents or materials relating to the mediation and/or attending the mediation or any preliminary meetings. The mediator will contact the observer prior to the mediation at an appropriate time.
10. The mediator will consider how to build a working relationship with the observer, by telephone or meeting, to discuss the case and to clarify the ground rules that the observer should follow during the mediation.
11. The parties are requested to provide case summaries and supporting documents to each other and the mediator. If the parties agree, the mediator will send the observer copies of the case summaries for the observer's reference.

The mediator usually contacts the parties before the mediation. Where possible, the mediator will invite the observer to any pre-mediation calls. Please note that the observer's availability will not be considered for scheduling these calls. If the observer does not attend these calls, the mediator will endeavour to provide a briefing to the observer prior to the mediation.

12. On occasions where the mediation is arranged at short notice, it may not be possible to provide the observer with any documentation in advance or for the observer to attend the pre-mediation calls.
13. The observer must not make any contact with the parties whatsoever.
14. Where the mediation is taking place using a video conferencing platform, the observer should familiarise themselves with the use of the platform, its settings and functionality prior to the meeting.

During the mediation

15. On the day of the mediation the observer should arrive in plenty of time to assist the mediator:
 - For in person mediations in arranging rooms, checking facilities, etc.; and
 - For video conference mediations in setting-up and testing the technology.
16. The observer should always work within the guidelines/ground rules agreed before the mediation.
17. The Observer will agree with the mediator as to how introductions will be made to the participants to the mediation and will be led by the mediator regarding the Observer's presence throughout the mediation process.
18. The mediator might ask the observer to:
 - Provide logistical back-up, e.g. arrange refreshments, act as a timekeeper, take notes, monitor group chats or communications, address technical issues, liaise with the parties when a private session for another party is over-running; and
 - Assist the mediator in the private session discussions with the parties including, for example writing up a flipchart between sessions (in-person or virtually), share thoughts and observations of the mediation in private discussion with the mediator.

19. No action should be taken in relation to the mediation by the observer without the mediator's express permission.

After the mediation

20. After the mediation the mediator and observer should either debrief immediately following the mediation or should fix a time when this can be done – in person, by video conference or by telephone. Feedback should be given as soon as possible after the event.
21. The mediator and observer are required to submit reports to CEDR that should be completed and sent to CEDR no later than five calendar days after the mediation has taken place.
22. The mediator should inform the observer of any post-mediation contact made with the parties, e.g. feedback or information about concluding a settlement if this did not happen on the day of the mediation.
23. At all times before, during and after the mediation, the observer must abide by the strict terms of the Mediation Agreement, especially the terms of confidentiality that apply to the mediation process.

Expenses

24. Observers are responsible for covering their own expenses associated with attending the mediation. CEDR accepts no liability for expenses under any circumstances and observers are advised to make flexible, refundable travel arrangements.

Observer undertakings

25. The observer agrees to:
- abide by the CEDR Code of Conduct for Third Party Neutrals;
 - familiarise myself with the CEDR Model Mediation Agreement;
 - abide by all the terms of the Mediation Agreement(s) applicable to the mediation(s) to which they are appointed as Observer;
 - hold all information obtained by me whilst observing a mediation as confidential as required in the provisions detailed in the Mediation Agreement;
 - Destroy or securely dispose of in a confidential wase bin all confidential case documents and papers relating to the mediation (whether in hard-copy, digital or other form) as soon as is reasonably practical following the conclusion of the mediation;
 - Co-operate fully with CEDR by providing any information or responses as requested by CEDR in relation to complaints or other issues relating to the conduct of the mediation which may be raised by the parties or third parties following the conclusion of the mediation
 - follow the instructions and understand the information detailed in this document; and
 - only participate in online mediation activity if, at the time of the online mediation activity, I am located in the United Kingdom or the European Economic Area (i.e. a European Union member state, Iceland, Liechtenstein or Norway).



26. I understand that:

- a. I am responsible for covering my own costs of attending the mediation; and
- b. CEDR will not be liable for any costs or expenses that I incur in relation to the mediation observation under any circumstances.

Signed

Signature: _____

Name: _____

Date: _____